

ST. ANN'S HOME

**CORPORATE
COMPLIANCE
PLAN**

CORPORATE COMPLIANCE PLAN

ST. ANN'S HOME
Jersey City, NJ 07305

COMPLIANCE COMMITTEE

The Home's Compliance Committee is charged with overseeing the administration of the Home's Corporate Compliance Program. The Compliance Committee members are the Executive Director, Finance Manager and a Unit Manager. This oversight includes employee training sessions, investigation and response to inquiries received from employees, implementation of internal audits, oversight of audits by outside firms, annual reports to the Board of Trustees and any other function necessary to ensure that the Corporate Compliance Program meet its objectives. All conversations with employees will be kept confidential to the maximum extent consistent with the fair and rigorous enforcement of the Corporate Compliance Program.

DESIGNATION

The Home has designated the Human Resources Manager to serve as the Corporate Compliance Officer.

DUTIES

The duties of the Compliance Officer shall include, but not be limited to, the following:

1) Audit Responsibilities

The Compliance Officer shall be responsible for overseeing both internal audits and audits conducted by outside firms in conjunction with the Executive Compliance Committee. The Finance Manager will assist with the audits. Internal audits shall be conducted on an annual basis and shall involve an examination of: i) actions that the Home has taken to comply with all applicable State and Federal statutes and regulatory requirements; ii) corporate policies and procedures to detect areas of concern; and iii) business conduct that is likely to result in potential legal risk. The Compliance Officer shall determine the scope and format of the audit. Potential areas of inclusion in the audit are as follows:

- fraud and abuse issues, e.g., purchasing and marketing practices, relations with physicians and charitable donations;
- employment policies (e.g., ADA and sexual harassment policies and procedures);

third party billing practices and pricing practices. Audit activities may be undertaken under the supervision of Outside Counsel in the expectation that audit findings will be privileged and confidential.

Audits by Outside Counsel

The Compliance Committee shall have the authority to retain counsel as needed for the guidance on issues arising under the Corporate Compliance Program and also may authorize and implement external audits if the need arises. With assistance from outside counsel, the Compliance Committee will identify the specific areas on which the external audit will focus and a timetable for completing the audit. The Compliance Officer will oversee, organize and implement all audits conducted by outside counsel with the guidance of the Compliance Committee.

Report to the Board of Trustees

The Compliance Officer shall meet with the Board of Trustees at a board meeting that occurs after the conclusion of an audit. The Compliance Committee will be responsible for preparing the agenda for the meeting.

Addressing Issues

The Compliance Officer will identify any compliance issues discovered during the audit and will develop a plan and an expedited schedule for addressing these issues in cooperation with the Compliance Committee.

2) Employee Training

The Human Resources Manager shall be responsible for overseeing the development of employee training seminars and for ensuring that these seminars are conducted in accordance with Corporate Compliance Policies. Employees will receive training regarding the Corporate Compliance Program and Code of Business Conduct at least once a year. Additional training sessions shall be conducted as the need arises.

3) Complaint Review

The Compliance Officer is responsible for reviewing all complaints/concerns reported in person.

An employee may report concerns or complaints to the Compliance Officer. This is not limited to finance-related concerns, but includes employment issues and all other areas of regulatory compliance. While the Compliance Officer will strive to keep all concerns/complaints confidential to the extent possible, the Compliance Officer receiving the concern/complaint may seek advice and guidance from other members of the Management Team.

4) Overall Responsibilities

The Compliance Officer shall oversee the entire administration of the Corporate Compliance Program, ensure that all employees are complying with the Corporate Compliance Program and that any potential violations or irregularities are promptly investigated and addressed.

CORPORATE COMPLIANCE TRAINING

Concurrent with the adoption of the Corporate Compliance Program, the Home will provide an educational program for its Board members and for senior management. Following its adoption, an educational program will be provided for middle management followed by training of front line staff. Thereafter, such training will be a part of the Home's orientation of new employees and annual mandatory education.

Staff training will be geared towards each group's job duties, and will include, at a minimum, review and discussion of a summary of the Home's ethics policy. Specific training is provided for staff with responsibility for specific compliance, such as billing and government programs.

Additional training will be provided as necessitated by the changes in regulations and/or Home policies and procedures. The Human Resources Manager is responsible for overseeing the compliance education and training program.

CODE OF ETHICS

INTRODUCTION

St. Ann's Home is committed to conducting its business lawfully and ethically. The Home's reputation is the sum of the reputations of its employees, so it is critically important that all of our employees meet the highest standards of legal and ethical conduct. To assure uniformity in standards of conduct, the Home has established this Code of Ethics as part of its Corporate Compliance Program. The Human Resources Manager has been appointed Compliance Officer to ensure compliance, serve as contact for employees reporting any potential violation of laws, regulations, or these policies and take appropriate action regarding such violations.

This Code of Ethics establishes general policies and procedures with which all Home employees must comply in order to ensure that their conduct conforms to ethical standards and is in accordance with applicable laws, rules and regulations. This policy cannot foresee all possible situations, but is meant to act as a guideline. Any questions regarding the propriety of any situation should be immediately referred to your supervisor or to the Compliance Officer.

Every Home employee is required to understand and comply with this Code of Ethics. Questions regarding interpretation of the Code should be referred to the Compliance Officer. Any employee violating a provision of this Code of Ethics will be subject to disciplinary action, up to and including discharge from employment. All other Home policies are expected to be consistent with this Code of Ethics. In case of inconsistency, this Code of Ethics will govern.

Compliance with All Laws and Regulations

All of the Home's employees must comply with Federal, State and local laws and government regulations and must immediately report any actual or possible violation of this Code of Ethics or such laws and regulations to the Compliance Officer. The Home also expects all employees to comply with licensure and certificate of need laws and regulations.

Compliance with Home Policies and Procedures

Home employees must also comply with all Home policies including, but not limited to: equal employment opportunity policies, Family Medical Leave Act policies, Americans with Disabilities Act policies, compensation policies, sexual harassment policies and Fair Labor Standards Act policies.

Dealing Honestly with Customers, Suppliers and Consultants

● Quality of Service

The Home is committed to providing services that meet all contractual obligations and the Home's quality standards.

● Contract Negotiation

The Home has an affirmative duty to disclose current accurate and complete cost and pricing data where such data are required under Federal or State law or regulation. Employees involved in the pricing of contract proposals or the negotiation of a contract must ensure the accuracy, completeness and currency of all data generated and given to the supervisors and other employees, and all representations made to suppliers, both government and commercial.

● Competitive Analysis

Managers must ensure that a competitor's proprietary information is not improperly obtained or used in an improper way.

● Antitrust Issues

Antitrust laws apply to all commercial and Federal transactions by the Home, and they are designed to ensure that competition exists to preserve the free enterprise system. This is a very complex area and this policy cannot cover all situations in which antitrust laws might apply. So, employees should take special care in this area, and refer any questions to the Compliance Officer, who will consult legal counsel as required.

Examples of actions that violate antitrust laws and that must not be done include:

- entering into or negotiating an agreement with one or more competitors to:
 - fix prices or to fix other terms of service
 - allocate customers or markets
 - boycott a supplier or customer.
- engaging in unfair practices that might restrict competition, such as:
 - discussion of pricing schemes or market divisions with competitors

- employees must also refrain from reciprocal agreements and must not require any purchaser to buy from the Home under any kind of coercion, express or implied.

- Anti-kickback and False Claims Issues

Federal and State laws prohibit the Home and its employees from offering anything of value to an entity or person to induce that person to purchase services from or refer a resident to the Home. Laws also prohibit accepting a kickback or filing a false claim. This is a highly complex area and this policy cannot list all of the situations in which these laws may apply. Therefore, employees must take special care in this area and refer any questions to the Compliance Officer.

Examples of actions that could violate anti-kickback laws include:

- 1) offering or paying anything of value to induce someone to refer a client to the Home or in turn for a referral;
- 2) offering or paying anything of value to anyone (client referral source) as part of marketing the Home;
- 3) soliciting or receiving anything of value for the referral of Home's residents to others;
- 4) receiving free goods of a kind other than the same goods when purchasing.

Examples of actions that could violate the Federal False Claims Act and other false billing laws include:

- 1) filing a claim for services that were not provided or not provided as described on the claim form;
- 2) filing a claim for services that were provided, but were medically unnecessary;
- 3) submitting a claim containing information that you know is false; or
- 4) misusing Social Security or Medicare symbols, emblems or names in marketing.

- Charging of Costs and Time Record Reporting

The Supervisor's signature on the time sheet is their verification that the hours and the allocation of hours are correct. Supervisors and managers may not condone inaccurate time reporting or cost charging.

- Hiring of Federal and State Employees

Approval must be obtained from the Compliance Officer before discussing hiring, as an employee or consultant, any current or former military or civilian government employee.

- Advance Directives

All employees and medical staff members shall comply with Home policies and Federal and State regulations regarding advance directives.

Using Home Resources Properly

- Political Contributions

Employees may not contribute or donate the Home's funds, products, services or other resources to any political cause, party or candidate.

Employees may make personal contributions of their own funds or other resources to any lawful political causes, parties or candidates but may not represent that these contributions come from the Home.

- Providing Business Courtesies

The Home's success results from providing quality services at competitive prices. We do not try to gain an improper advantage by offering business courtesies such as entertainment, meals, transportation or lodging to referral sources or purchasers of Home services. Employees should never offer any type of business courtesy to a referral source or purchaser for the purpose of obtaining favorable treatment. To avoid even the appearance or impropriety, employees must not provide any referral source or purchaser with gifts or other items of more than nominal value, such as pens or calendars.

Except for government employees (see next section), Home employees may pay for reasonable meal, refreshment and/or entertainment expenses for referral sources and purchasers of Home's services, ONLY IF, this is done occasionally, is not requested by the recipient, and is not intended to or likely to affect the recipient's business dealings with the Home.

- Government Employees

The Home is a party to government contracts or subcontracts with various governmental agencies. Examples are provider contracts under which the Home supplies services to or on behalf of the Medicare and Medicaid programs. It is essential for all employees to know and comply with the applicable laws, rules and regulations of these agencies. Any employee who may have a concern or question about compliance with any government contract or subcontract should contact their supervisor or the Compliance Officer.

Employees may not provide or pay for any meal, refreshment, entertainment, travel or lodging expenses for government employees without the prior approval of the Compliance Officer and the Executive Director.

- Receiving Business Courtesies from Vendors
Please refer to section "Accepting Business Courtesies."

Grants and Charitable Contributions

Educational Activities Grants

No representative of the Home shall receive any educational activities' grants that create even the appearance of impropriety or conflict with the "Gifts to Physicians from Industry" Guidelines adopted by the American Medical Association's Council on Ethical and Judicial Affairs and the Pharmaceutical Manufacturers Association in 1990.

Research Grants

The Home shall ensure that any funds provided to support health care research or consulting agreements are provided for bona fide purposes and in a manner that clearly separates such payments from any referrals or purchases of goods or services. All research grants from vendors must be approved by the Compliance Committee and must be for legitimate, bona fide research.

Charitable Contributions

All charitable contributions received from vendors must directly benefit the Home. No check may be made payable to any individual at the Home. The Home shall not accept any donations that are in conjunction with a marketing effort or sales promotion. No donations that require the Home to use the donation to purchase supplies from the vendor making the contribution shall be accepted.

See the Home's policy on Charitable Contributions and Research Grants for more information on these topics.

- Accurate Books and Accounts

All of the Home's payments and other transactions must be properly authorized by management and be accurately and completely recorded on the Home's books and records in accordance with generally accepted accounting principles and established corporate accounting policies. No false, incomplete or unrecorded corporate entries shall be made. No undisclosed or unrecorded corporate funds shall be established for any purpose, nor shall the Home's funds be placed in any personal or non-corporate account. All corporate assets must be properly protected, and asset records must be regularly compared with actual assets, with proper action taken to reconcile any variances.

- Avoiding Abuses of Trust

The Home expects its employees to avoid engaging in any activity that might interfere, or appear to interfere, with the independent exercise of the employee's judgement in situations where the employee's personal interests might conflict with the Home's interest or the interests of the Home's residents or suppliers.

- Conflict of Interest

An employee of the Home may have employment, consulting or other business relationship with a competitor, resident or supplier, or invest in any competitor, resident or suppliers (except of moderate holdings of publicly traded securities) with advance written permission granted by the Compliance Officer. Advance written permission is also needed before an employee may invest in any privately held company or entity that performs services for the Home, or that employs providers who may refer residents to the Home or to which Home's residents may be referred.

Outside employment may constitute a conflict of interest if it places an employee in the position of appearing to represent the Home, involves services similar to those the Home provides or plans to provide, or if it decreases employee productivity or efficiency at the Home.

Any outside employment that raises questions in this regard must be reported to the Home and approved by the Compliance Committee.

- Insider Trading

No employee of the Home shall trade in the securities of any company, or buy or sell any property or assets, on the basis of non-public information acquired through employment at the Home, whether such information comes from the Home or from another company with which the Home has a business relationship.

- Acceptance of Business Courtesies

Employees should not accept gifts or promotional items of more than nominal value from persons or companies doing business with the Home. Gifts valued at more than \$100 must be pre-approved by the Compliance Officer. Gifts worth more than \$50, must be reported to the Compliance Officer. An employee may accept meals, drinks or entertainment only if such courtesies are unsolicited, infrequently provided and reasonable in amount. Such courtesies must also be directly connected with business discussions unless an exception is approved by the Compliance Officer. Reimbursement for lodging or travel expenses or free lodging or travel also requires such approval.

- Safeguarding the Home's Restricted Information

Employees are not to disclose to any outside party any non-public business, financial, or technological information, plans or data acquired during employment at the Home, unless disclosure is specifically authorized by management.

In the course of employment, information should be given only to those with a "need to know" and should not be provided to unauthorized personnel. On termination of employment, employees may not copy, take or retain any documents containing the Home's restricted information. Employees are obligated to protect the confidentiality of Home information after their employment ends, as long as the information is not in the public domain.

- Confidential Information

Employees must also strictly protect all confidential resident information outside of the course of Home business. Employees also have an obligation to respect and protect the confidentiality of any information regarding the health status of residents, employees and members of the medical staff.

- Government Proprietary and Source Selection Information

The Home does not solicit, nor will it receive, any sensitive proprietary internal government information, including budgetary, program or source selection information, before it is available through normal processes.

- Refraining from Substance Abuse

It is the policy of the Home to provide employees and residents with an environment that is free of the use and abuse of controlled substances, other medicines and alcohol. See the Employee Handbook and policy on Alcohol and Drugs for details.

It is prohibited on all Home premises to manufacture, distribute, dispense, possess or use controlled substances illegally. The consumption, possession, sale or purchase of alcohol on Home property is prohibited except for events approved in advance by the Executive Director. The Home also prohibits the use of alcohol by employees directly before or during the work day. Violations of this policy will result in disciplinary action, which may include termination.

IMPLEMENTATION

Upon adoption of this Code of Ethics a summary will be provided to all employees. Employees are required to sign a Statement of Understanding at that time, and once a year thereafter. Each Department Manager is responsible to review with all of their employees the portions of this Code of Ethics which are pertinent to their work, on passage and annually thereafter, and with new employees within thirty days of hire. The signed statement of understanding should be returned to the Human Resources Department for filing with the employee's records.

TRAINING

A review of the Code of Ethics will be included in the annual mandatory education program for all employees. Employees in sensitive areas will receive additional education at least annually. A summary of educational programs shall be included in the Compliance Officers' annual report to the Board. Agenda for the meeting shall be prepared by the Compliance Committee.

Reporting Violations

Department Managers and supervisors are responsible for ensuring that employees are aware of and follow the provisions of this Code of Ethics. Anyone who has questions regarding any part of this document should contact the Compliance Officer.

Employees are expected to report any possible violations of the Code of Ethics to the Compliance Officer as soon as they become aware of them. All reports must be in writing and contain enough information to make follow up possible. No action will be taken against an employee for making such a report. All reports will be kept confidential to the maximum extent possible with fair and full enforcement of this Code of Ethics.

Any report will immediately be investigated. A confirmed violation may result in discipline, up to and including termination or, where appropriate, the filing of a civil or criminal complaint.

Limitation on Effect of Code of Ethics

Nothing contained in this policy is to be interpreted to create a contract of employment, expressed or implied, nor to alter a person's status of employment with the Home to anything but an "employment-at-will" relationship.

ETHICS SUMMARY

St. Ann's Home is committed to conducting its business lawfully and ethically and expects its employees to meet the highest ethical and legal standards. This policy is a broad overview of our ethical standards for all employees. Any questions regarding these standards should be asked of the Compliance Officer.

- All employees must obey all Federal, State and local laws and regulations and must immediately report to a Compliance Officer any violation of these laws or of this code of ethics.
- All employees must follow all Home policies.
- Time sheets must be filled out accurately. Hours must be charged to the department in which they were actually worked. Signatures on a time sheet are your verification that the information is correct. Supervisors and managers may not condone inaccurate time reporting or cost charging.
- All employees and medical staff members shall follow Home Policies and Federal and State regulations regarding advance directives.
- All employees must protect the confidentiality of information about residents, other employees, medical staff members and Home business. They must continue to do so even when they are no longer employed by the Home.
- It is the policy of the Home to provide employees and residents with a work environment that is free from the use and abuse of controlled substances and alcohol. See the employee Handbook and policies on Alcohol and Drugs for further details.
- We will not accept any money, gift or anything of value to refer a resident to any type of service. We will not offer any money, gift or anything of value to anyone in exchange for them referring residents to us.
- We will not accept tips or gifts from residents or their families or friends.
- We will not file claims for services that were not provided or not necessary. We will not submit claims containing information we know is false.
- The approval of the Compliance Officer is needed before discussing hiring, as an employee or consultant, any current or former government employee.

- All payments and other transactions must be properly authorized by management and be accurately recorded on the Home's records in accordance with generally accepted accounting principles and established corporate accounting policies. No false, incomplete or unrecorded corporate funds shall be established for any purpose. Home funds may not be placed in any non-corporate or personal account. All corporate assets must be properly protected and asset records regularly compared with actual assets and action taken to reconcile any variances.
- No employee of the Home may have a business relationship with a competitor or supplier, or invest in any competitor or supplier (except moderate holdings of publicly traded securities) unless advance written permission is given by the Compliance Committee.
- It is expected that employees involved in the pricing of contract proposals will ensure that data is accurate, complete and current. Submission of information that is false or incomplete can lead to liability on the part of the Home, the employee and any supervisor who has condoned this practice.
- Employees and supervisors are responsible to see that we do not improperly obtain or use any competitor's proprietary information.
- Employees must not enter into any agreement with a competitor to: fix prices, allocate customers or markets, or boycott a supplier or customer. We do not engage in any unfair practices that would restrict competition. Any questions regarding this should be referred to the Compliance Officer.
- Employees may not donate the Home's funds, products or services to any political cause, party or candidate. If employees donate their own funds to a political cause, party or candidate, they may not indicate that the donation is on behalf of the Home.
- Business Courtesies:
 - We may not provide or pay for any meal, refreshment, entertainment, travel or lodging expenses for any government employee without the approval of the Compliance Officer or Executive Director.

- We may provide reasonable meals, refreshments or entertainment for referral sources and purchasers, if this is done only occasionally, is not requested by the recipient and is not intended to affect business dealings.
- Any educational or research grants must be approved by the Compliance Committee.
- Charitable contributions must be made payable to the Home. We do not accept any donations that are in conjunction with a marketing effort or sales promotion or that require us to use the donation to purchase supplies from the vendor making the contribution.
- No employee shall trade in the securities of any company, or buy or sell any assets, on the basis of non-public information acquired through employment at the Home.
- Department Managers and supervisors are responsible to ensure that employees are aware of and follow this code of ethics.
- If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed with your immediate supervisor, and if necessary, with the Compliance Officer.
- Employees are expected to report any possible violation of this Code of Ethics to the Compliance Officer as soon as they become aware of them. Reports must be in writing and contain enough information to make follow up possible. No action will be taken against an employee for making a report. All reports will be kept confidential to the maximum extent possible.

CHARITABLE CONTRIBUTIONS and RESEARCH GRANTS

Policy:

It is the policy of the Home to ensure that the acceptance of charitable donations and research grants furthers the Home's mission and complies with conditions placed on the grant by the donor and applicable Federal and State laws and regulations. This policy also addresses the Home's relationship with its suppliers and other health care providers in terms of charitable contributions, free goods and other philanthropic activities.

Charitable Contributions

- All charitable contributions must be made for the benefit of the Home and must be for the purpose of advancing the Home's mission.
- All charitable contributions must be made directly to the Home. Contributions may be earmarked for particular programs or purposes, but should not be given to individual employees, departments or programs.
- All checks and other documents must be made out to St. Ann's Home for the Aged.

Charitable Contributions from Suppliers and Other Health Care Entities

From time to time a supplier, vendor or another health care entity may wish to make a charitable contribution to the Home in keeping with their own mission and charitable mission of the Home. Because contributions could subject the Home to significant potential legal liability, the Home has developed the following requirements for the acceptance of charitable contributions from suppliers or vendors.

These requirements cover contributions from any entity that manufactures, distributes or supplies any type of product (such as medical supplies, medical equipment, drugs or medical devices) that the Home might use, or any health care entity for which the Home may serve as a source of resident referrals. This policy governs suppliers with which the Home is currently doing business AND suppliers who are in a position to do business with the Home.

No representative of the Home shall receive any educational activities' grants that create even the appearance of impropriety.

● Charitable contributions that are made by a supplier, vendor or health care entity may not be tied in any way to a purchase of the donor's goods or products or referrals to the donor. Contributions may not be contingent upon the Home's purchasing services or products from the supplier or vendor, or the referral of clients. A reduction in price of goods or services purchased, or the offer of free goods in connection with goods or services otherwise purchased is not a charitable contribution. Such arrangements are discounts and the Home's policy on discounts shall apply in such a situation. The Home shall report all price reductions as discounts, and shall refrain from receiving discounts that cannot be reported as such on the cost report.

● Charitable contributions by a supplier, vendor or health care entity in a position to obtain referrals from the Home may not be made in conjunction with a sale or marketing promotion of any product or service that is offered or proposed to be offered to the Home.

GOVERNMENT AGENCY AUDITS, SEARCHES and OTHER CONTACTS with the HOME

Purpose: The Federal and State governments have made the investigation and prosecution of health care fraud one of their highest priorities and have proposed many new initiatives for identifying fraudulent practices. A number of these initiatives include conducting audits of nursing homes. Therefore, government investigations will become much more common. St. Ann's policy has been and will continue to be to provide full cooperation to government authorities while at the same time protecting the right of the Home and its employees.

The Home strives to comply fully with all of the complicated rules and regulations governing the health care industry. Nevertheless, the Home acknowledges that government health care regulations and their enforcement are a very complex area of the law. Since government inquiries are important and often complicated, the purpose of this policy is to provide a uniform method for our employees to respond to any government representative who contacts them for information regarding the home, physicians or suppliers.

Federal and State Government Agencies

For the purposes of this policy, a federal or state government agency includes, but is not limited to, the following:

Department of Health and Human Services Drug Enforcement Agency (DEA)	Federal agency overseeing administration of controlled substances
Federal Bureau of Investigation (FBI)	Investigative arm of Federal government programs
Health Care Financing Administration (HCFA)	Federal agency overseeing administration of the Medicare and Medicaid Programs
Medicaid Fraud Control Unit (MFCU)	Investigative arm of state Medicaid agency
Office of the Inspector General (OIG)	Investigative arm of Federal government programs
State Attorney General's Office	Arm of the State responsible for investigating/prosecuting violations of State laws

The following are included in this policy, EXCEPT FOR routine contracts:

Medicaid Programs

State health insurance programs for the medically indigent

Medicare Intermediary

Claims processors of Medicare Part A and Part B programs

State Government

Any State agency or department

If you are contacted by any of the above organizations, or by an organization that is not on this list, and you are unsure whether the organization is a Federal or State government agency:

- Contact your department manager or supervisor immediately
- If they are unavailable, contact the Compliance Officer

Be aware that during initial calls or visits regarding an investigation, you may not be told that an investigation is going on. If an auditor or other government representative asks you questions about things they don't usually ask you about, do not answer their questions. Tell them they will need to speak to your department manager. Call your department manager and let them know about this immediately.

Procedure

This is the procedure to follow for unusual visits or questions from a representative of a State or Federal government agency regarding the Home, its physicians or any group with which the Home does business:

1. Contact your Department Manager. Department Manager should notify the Executive Director, then proceed as follows at his/her discretion:
2. If it is an in-person visit, ask to see the government representative's identification and business card. Otherwise, ask for their name, office address and telephone number and ID number and call the government representative's office to confirm their authority.
3. If the representative wants to speak to you personally, find out why without getting into details. (See interview section at end of policy).

4. If the government representative wants to search a Home area or obtain documents from the Home, notify the Compliance Officer at once. The Officer will ask to see legal documents, such as a search warrant or subpoena, examine the document for validity, make a copy and notify legal counsel if indicated.
5. All subpoenas for the Home's records must be handled through the Executive Director.

Interviews

- Sometime, agents or investigators will suggest that you must speak with them. **No one is required to speak to an agent or investigator on the spot.** You may make an appointment to speak with the agent at a later date. The agent may try to talk you out of delaying the interview by suggesting that if you have nothing to hide, conducting the interview right away should not be a problem. A good response is that they have nothing to fear from a simple delay of an unscheduled interview.
- You are not required to attend any interview alone. Make certain that your department manager is aware of the interview and that you want someone with you at the time.
- Of course, you are free to speak with the government representative if you wish. If you choose to do so before notifying the Compliance Officer, contact the Officer as soon as possible after the interview. You are encouraged to take notes of any conversation. Prior to meeting with a representative, check with your supervisor to determine that the time does not conflict with other duties.
- During any interview with a government representative, you should follow these simple tips:
 1. Always tell the truth. If you do not know or remember something, say so. Do not guess.
 2. In talking with a government representative, you should be very careful to answer questions completely, accurately and concisely so that there will be no misunderstanding as to what you are saying. It is important to make clear whether information is something you know first-hand or is just something you have heard.
 3. Please contact the Compliance Officer as soon as possible after the interview.

Searches

If a government representative wants to obtain documents or search a Home area on the spot, notify the Compliance Officer, and do not do anything further until they respond.

- If a search warrant is valid, we must allow the search. However, we may need to contact legal counsel to determine the validity of the warrant before allowing the search to take place.
- Remember, it is unlawful to obstruct an agent in the lawful exercise of their duties, including the exercise of a valid search warrant. Some other examples of unlawful behavior are: altering or destroying documents sought in an investigation; falsely denying knowledge of information; corruptly influencing another person to exercise the privilege against self-incrimination; or intimidating or retaliating against a witness. **However, you can ask questions and ask for a copy of the warrant.** Remain calm, polite and observant. If you notice other employees engaging in any unlawful conduct, notify the Compliance Officer.
- Watch the government representative and take notes on everything they look at or ask questions about.
- Do not let the government representative use the copying machine or remove documents from the premises. We need to make two copies at the copying machine of all documents requested by the representative so that we will have one full set of copies and a clear record identifying what documents were copied for the government.
- Get a detailed receipt from the government representative listing all documents they have obtained a copy of.
- You are required to answer questions concerning the location of documents. You are not required to answer other questions and can tell the government representative that you want to wait until a representative of administration or legal counsel is present.
- If you are asked to sign any document, do not comment as to the validity of its contents. Explain that you are not authorized to sign anything prior to review by legal counsel.

Communications Regarding An Investigation

Rumors have a way of spreading out of hand. Do not contribute to them by discussing the matter with other employees or with people outside of the Home. If you receive any inquiries from the media, you must refer them to the Executive Director. You should not attempt to provide any explanation. Make attempts to obtain the identity of any person asking questions.

RECORDS MANAGEMENT

Introduction

It is the policy of the Home to have in place a cost effective records management policy addressing appropriate retention procedures.

During the course of its business, the Home generates and receives a substantial volume of documents. Certain records must be maintained for given periods of time, as specified in applicable laws or in contracts. The purposes of this records management policy are to: ensure that records are retained for appropriate periods of time; provide that records which are no longer useful are destroyed; and provide that records to be retained are stored methodically and economically. This policy establishes procedures for the systematic review, retention and/or destruction of Home records.

Objectives

- A. Maintain all records for the minimum period required by applicable State or Federal law or regulation or by contract.
- B. Retain records which may substantively affect the obligations of the Home for a period of time which will reasonably ensure the availability of those records when needed.
- C. Develop and maintain records management files adequate to document the Home's compliance with all relevant laws.
- D. Destroy records regularly and methodically pursuant to a standard policy.
- E. Maintain a safeguard for all destruction procedures to ensure that the destruction of relevant records is halted
- F. Identify and safeguard appropriately all vital records.
- G. Ensure that records are secure and confidential, as appropriate.
- H. Maintain a policy that encompasses records maintained on electronic data processing media, as well as printed documents.

Records Review and Retention

A. Annual Review

Each department of the Home will conduct a file review and purge process on an annual basis. This process consists of identifying and destroying unnecessary duplicate and multiple copies of documents, retaining one draft; reviewing and destroying documents which have exceeded their required retention period, and identifying, grouping and labeling documents which require retention and transferring these documents to the records storage site. Documents will be purged in accordance with the Records Retention Schedule on file in the Administrative Secretary's office.

B. Departing Employees

The business files of employees who are terminating their employment or transferring within the Home will be reviewed by the employee or their supervisor concurrent with the employee's departure. These files may either be purged if permitted under this policy or reassigned to another employee, as appropriate.

C. Labeling and Marking

Records to be retained should be labeled and marked with a disposal date beyond the period established for retention. Records storage containers must be labeled in sufficient detail that they may be promptly and accurately identified should retrieval prove necessary. The disposal date should always be December 31 of the last year for which the file must be retained. For example, a document dated March 17, 1997 with a three year retention period would be designated for destruction on December 31, 2000.

D. Destruction

In January of each year, it is the responsibility of each department manager to review the documents at the records storage site, to determine which records have reached their disposal date and to arrange for return and disposal or destruction of the documents. The destruction method must take into account the need for confidentiality.

E. Confidentiality

Residents' records, employee medical records and other records subject to confidentiality restrictions must be stored securely and destroyed in a manner that ensure confidentiality, such as shredding or mutilation.

F. Documentation

Each department will utilize a control form to document the following steps in the records management process:

- transfer of records to storage;
- identification, control and maintenance of records in storage;
- retrieval/return of records to/from storage; and
- destruction of records and deletion from the records inventory.

G. Conflict with Contractual Requirements

To the extent that contractual records retention requirements exceed the records retention period (listed in the retention schedule) or specify the retention of documents not listed in the schedule, the contractual requirements will control. No originals of documents related to open contracts and subject to contractual retention requirements may be destroyed without the approval of the Executive Director, who will consult with legal counsel as necessary.

H. Vital Records

Each department must identify and designate as vital records those records which: are essential to the continuity of the Home or to the Home's legal and financial status; are necessary for fulfillment of obligations to employees, residents or other outside interests; or establish Home ownership of assets which would otherwise be difficult to prove. Vital records must be duplicated and the duplicates must be stored in an off-site location for reconstructive use in the event of catastrophic document loss.

I. Electronic Storage

Records generated and maintained in the Home information systems or equipment will be reviewed periodically, no less than annually, to ensure that the policy requirements are applied to these documents.

J. Investigations and Litigation

Upon the Home's receipt of notice regarding the initiation of an investigation or the service of legal process, administration will notify all departments in possession of potentially relevant documents as promptly as practicable and direct them to preserve any relevant documents until further notice.

K. Interpretation

Any questions regarding the application of this policy should be referred to the Compliance Officer.

Policy Review

The Administrative Secretary will review and update this policy and the sample records retention guide in the normal course of review of the Corporate Compliance Program. The records retention schedule is on file in the Administrative Secretary's office.

DIRECT-TO-CONSUMER MARKETING and PATIENT WAIVERS OF CO-PAYMENTS and DEDUCTIBLES

Direct-To-Consumer Marketing

Direct-to consumer marketing includes any activities which market the Home's services directly to consumers, such as promotional items.

It is the Home's policy not to offer free items or services that are unrelated to health care. Any free items or services offered must be of minimal value. There is no exact dollar figure to determine the definition of minimal value. Rather, it is determined on a case-by-case basis. Examples of promotional items which are of minimal value are calendars and refrigerator magnets. Approval of the Executive Director is needed for any promotional efforts which do not clearly fall into this category.

WAIVERS OF COINSURANCE AND DEDUCTIBLES

General

Some Home residents are covered either under a private health benefits policy or a Federal or State health care program which usually requires the resident to pay certain expenses, such as co-insurance and deductibles, out of their pocket. Waivers of these requirements may subject the Home to liability.

The Home works within the terms and conditions of each resident's insurance policy. Regardless of who the insurer is, the Home's general policy is to bill for all applicable out-of-pocket amounts and to make good faith efforts to collect these amounts.

REIMBURSEMENT and BILLING

Policy

The Home is committed to ensure that:

- its billing practices comply with Federal and State laws, regulations and guidelines
- policies and procedures ensure accurate billing and submission of claims only for services that were provided and medically necessary
- cost reports accurately reflect costs incurred for providing health services.

BILLING COMPLIANCE OFFICER

The Finance Manager shall serve as the Billing Compliance Officer. S/he has the primary responsibility to ensure that requirements contained in this policy are accurate and carried over into the Home's operations.

Responsibilities of the Billing Compliance Officer include:

1. Answering all employee questions concerning reimbursement and billing issues that cannot be answered from either this policy or the Medicare Reimbursement Manual. Billing personnel will be informed of the role of the Billing Compliance Officer during training sessions.
2. Ensuring that all of the Home's reimbursement and billing manuals and materials are up-to-date and reflect current government rules, regulations and practices.
3. Ensuring that government policies and procedures are reviewed and that Home policies reflect any changes in such.
4. Ensuring that all government and carrier reimbursement and billing manuals that Home employees utilize are current and updated on a regular basis. Outdated billing and reimbursement manual provisions will not be disposed of, but will be retained in separate files.

AUDIT PROCEDURES AND INTERNAL BILLING CONTROLS

1. All billing, claims processing and reimbursement procedures and practices will be reviewed internally each year under the direction of the Finance Manager in order to confirm that this policy is being administered appropriately.

2. An outside review of billing, claims processing and reimbursement procedures and practices will be conducted at least biennially under the direction of legal counsel. Audits may focus on a particular aspect of these procedures, at the discretion of legal counsel, who may also conduct additional reviews if needed.
3. The Finance Manager shall make a report to the Finance Committee of the Board of Trustees at its next regularly scheduled meeting following any audit.
4. Any findings which indicate that the Home may have been incorrectly paid shall be fully evaluated and any amounts ultimately determined to be owing to payers shall be repaid promptly.
5. Amounts determined in the ordinary course of operations to have been incorrectly paid shall be returned to the payer via the payer's preferred method.

BILLING AND REIMBURSEMENT ISSUES

1. Billing personnel who identify any billing or reimbursement issues with respect to claims already submitted to a payer must consult with the Finance Manager. If issues are not resolved, they should notify the Corporate Compliance Officer and Executive Director.
2. Billing personnel may encounter cases where it is not clear whether particular health care services are covered, or how a claim should be submitted for reimbursement. Employees shall bring such issues to the attention of their supervisor. If necessary, the Finance Director will contact the payor or Medicare carrier to attempt to resolve the issue.
3. Billing personnel shall notify their supervisors of any billing instruction received from payers, verbally or in writing, which is inconsistent with the Home's current procedures.

PATIENT CONFIDENTIALITY

Policy

St. Ann's Home is committed to protecting the privacy of its residents and shall govern strictly the disclosure of any resident information to anyone other than a Home employee or staff member involved in the care and treatment of that resident, a family member authorized by the resident to receive information on their behalf, or a third party payer or receiving institution as per admission consent.

St. Ann's Home routinely monitors and audits individuals accessing resident information. Any employee who engages in the unauthorized disclosure of any resident information will be subject to the disciplinary process up to and including immediate termination.

To ensure that all resident information remains confidential, employees are required to comply with the following guidelines:

1. Employees shall not discuss any resident in an external or internal environment (such as an elevator or canteen) where such information could be heard by unauthorized persons.
2. If asked about a resident by anyone other than Home employees involved in the care or treatment of the resident or the resident's legal guardian or health care representative, Home employees may not disclose information without obtaining the written consent of the patient or their legal guardian. Questions from third party payers should be referred to the Finance Manager.
3. Medical staff members and Home employees may not have access to the records of any resident unless they are involved in the care and treatment of that resident or a legal reason exists requiring them to have access to the record.
4. This policy also applies to Volunteers, students, vendors and visitors.
5. Employees shall not discuss confidential information regarding other employees. They shall not have access to employee records unless they are involved in processing documents such as payroll or personnel actions.

If you suspect that any employee or staff member has breached this policy, please report your concerns to the Compliance

Officer.

HAZARDOUS and MEDICAL WASTE DISPOSAL

Policy

St. Ann's Home is committed to ensuring that all hazardous and infectious waste that the Home generates is disposed of in accord with Federal and State laws and regulations. The Home also believes that it has an obligation to prevent exposure to or contamination of the environment, to residents and personnel by hazardous or infectious waste.

All hazardous and infectious waste should be stored, handled and disposed of in full compliance with Federal and State laws and regulations and with Home policy. The Home's policies may be found in the Fire and Safety Manual. Employees should contact the Environmental Services Manager with any questions about proper handling, storage, transportation or disposal of infectious materials or regulated medical waste. Contact the Environmental Services Manager with questions regarding hazardous materials or waste or to obtain a copy of a Material Safety Data Sheet (MSDS).

Employees should promptly notify their supervisor and Executive Director if they are aware of any unsafe storage, transportation, disposal, or improper release of any hazardous or toxic material. Staff should also notify them if they are aware of any failure to maintain records on handling of hazardous or infectious waste or if records are not accurate. Notification may be made directly or through the e-mail system.

DRUG and SMOKE FREE ENVIRONMENT

St. Ann's is committed to creating and maintaining a drug-free environment. The unlawful manufacture, distribution, possession or use of a controlled substance will subject employees to disciplinary action, up to and including termination. This includes activities of employees while off premises during non-working hours.

All employment offers are contingent upon a candidate's ability to pass a pre-employment physical examination and drug test.

Employees are expected to report to work fit for duty and free from the influence of drugs or alcohol. Possession of intoxicating beverages on St. Ann's premises or reporting to work with alcohol on their breath or under the influence of alcohol will subject an employee to disciplinary action, up to and including termination.

St. Ann's provides a smoke free environment for its residents and staff.

Policy

Section 6032 of the federal Deficit Reduction Act of 2005 (Public Law 109-171) requires certain governmental, for-profit and non-profit providers and other entities that receive Medicaid funding to take actions that will **detect and prevent** fraud, waste and abuse in health care programs that receive federal funds. It is the policy of St. Ann's Home to be in compliance with the federal and state laws and regulations related to the Deficit Reduction Act, the federal False Claims Act, the federal Program Fraud Civil Remedies Act, New Jersey's Medical Assistance and Health Services Act, New Jersey's Health Care Claims Fraud Act, the New Jersey Conscientious Employee Protection Act, and the New Jersey False Claims Act.

A. The Deficit Reduction Act provides that:

1. Governmental, for-profit and non-profit providers and other entities that receive Medicaid funding are required to establish written policies for all employees and contractors or agents that provide detailed information about the federal and State laws on false claims; fraud, waste and abuse; and whistleblower protections, and separate administrative remedies for false claims or statements;
2. Include as part of the written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse, and;
3. Provide employees with a specific discussion of the rights of the employees to be protected as whistleblowers and the entity's policies and procedures for preventing and detecting fraud, waste, and abuse.
4. Under Section 6032, St. Ann's Home contracted providers must establish and make available to their employees, and to their contractors and agents, policies that explain:
 - (a) the federal and New Jersey laws that deal with false claims in Medicaid, Medicare and other federally funded health care programs; and
 - (b) the policies and procedures that St. Ann's Home contracted providers have in place to detect and prevent fraud, waste and abuse in these programs.
5. The contractors and agents that do business with St. Ann's Home contracted providers must then adopt policies and make them available to their employees.
6. St. Ann's Home components are required to post information on how employees may report Medicaid fraud, waste or abuse. A poster is appended to this circular that is to be posted in employee common areas.

B. Definitions:

For purposes of this circular, the following terms shall have the meaning defined herein:

“Claim” means any request or demand for money that is submitted to the federal government or its contractors.

“Contractor or agent” means any contractor, subcontractor, or agent, or other person which or who, on behalf of St. Ann’s Home, furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services.

performs billing or coding functions, or is involved in monitoring of health care provided by the Home.

“Knowing and/or knowingly” means that a person, with respect to the information has actual knowledge of the information; acts in a deliberate ignorance of the truth or falsity of the information; or acts in reckless disregard of the truth or falsity of the information; no proof of specific intent to defraud is required.

C. Procedure for Reporting Fraud, Waste or Abuse:

1. If you are an employee of St. Ann’s Home, or an employee of a contractor or agent of St. Ann’s Home and believe that there is fraud, waste or abuse in Medicaid, Medicare or other health care program receiving federal funds, or in any health care program involving just state funds, you can do one of the following in addition to the current procedures that you follow:

a. You may report directly to the St. Ann’s Home Compliance Officer, at St. Ann’s Home, 198 Old Bergen Road, Jersey City, NJ 07305 Phone: (201) 433-0950 x523 or if you wish to maintain anonymous our Hotline at St. Ann’s Home is extension 599.

b. Call the toll-free NJ Fraud and Abuse Hotline at 1-888-9FRAUD5 (1-888-937-2835) and report any information about fraud, waste or abuse in Medicaid or any other program for which the Division of Medical Assistance and Health Services (DMAHS) is responsible in whole or in part. You can either speak to the hotline operator, or leave a message if the operator does not answer. You do not have to give your name if you do not want to. You might also receive a reward if your call leads to a recovery.

c. Call the toll-free hotline established by the federal Office of Inspector General in the U.S. Department of Health and Human Services to report any fraud, waste or abuse involving Medicare or any other health care program involving only federal funds. That hotline number is 1-800-HHS-TIPS (1-800-447-8477). For more information about this hotline and about other ways to contact the Office of Inspector General, you can go to <http://oig.hhs.gov/hotline.html>.

2. If you report fraud, waste or abuse, you are protected as a “whistleblower” under a state law from any punishment or other retaliation. This state law is known as the “Conscientious Employee Protection Act”, and is described in the notice issued by the New Jersey Department of Labor and Workforce Development that can be found at [http://www.state.nj.us/labor/AD-270\(11X17\).pdf](http://www.state.nj.us/labor/AD-270(11X17).pdf).

a. If you are a “whistleblower”, you can also file a lawsuit called a “qui tam action” in federal court under a federal law known as the “Federal False Claims Act”. You can also file such an action in either federal or State court under the New Jersey False Claims Act. These laws also protect you from punishment or other retaliation, and if you are successful, you might get a share of the recovery. These laws are described in more detail in section V.D. of this circular.

D. Information on Relevant Federal and State Statutes

The following information is provided for reference purposes only. Refer to the actual statute for the complete requirements.

1. Federal False Claims Act, 31 U.S.C. 3729-3733

The Act establishes liability when any person or entity improperly receives from or avoids payment to the Federal government--tax fraud excepted. In summary, the Act prohibits:

- a. Knowingly presenting, or causing to be presented to the Government a false claim for payment;
- b. Knowingly making, using, or causing to be made or used, a false record or statement to get a false claim paid or approved by the government;
- c. Conspiring to defraud the Government by getting a false claim allowed or paid;
- d. Falsely certifying the type or amount of property to be used by the Government;
- e. Certifying receipt of property on a document without completely knowing that the information is true;
- f. Knowingly buying Government property from an unauthorized officer of the Government, and;
- g. Knowingly making, using, or causing to be made or used a false record to avoid, or decrease an obligation to pay or transmit property to the Government.

Any individual or entity engaging in any of the seven categories of prohibited actions listed in 31 U.S.C. 3729(a), including the submission of false claims to federally-funded health care programs, shall be liable for a civil penalty which currently is not less than \$5,500 and not more than \$11,000 per false claim, plus three times the amount of damages sustained by the federal government. The amount of the false claims penalty is to be adjusted periodically for inflation in accordance with a federal formula.

The U.S. Attorney General may bring an action under this law. In addition, the law provides that any “whistleblower” may bring an action under this act on their own behalf and for the United States Government. These actions, which must be filed in U.S. District Court, are known as “qui tam” actions.

The Government, after reviewing the complaint and supporting evidence, may decide either to take over the action, or decline to do so, in which case the whistleblower may conduct the action. If either the Government or the whistleblower is successful, the whistleblower is entitled to receive a percentage of the recovery. If prosecuted by the federal government, these qui tam actions are generally handled by the various U.S. Attorney's Offices, or by the U.S. Justice Department.

Whistleblower Protections:

31 U.S.C. 3730(h) provides that any employee who is subject to retaliation or discrimination by an employer in the terms and conditions of employment because the employee lawfully sought to take action or assist in taking action under this act "shall be entitled to all relief necessary to make the employee whole." This includes reinstatement with seniority restored to what it would have been without the retaliation or discrimination, double the amount of back pay, interest on back pay, and compensation for any special damages sustained as a result of the employer's actions, including litigation costs and reasonable attorney's fees.

2. Federal Program Fraud Civil Remedies Act, 31 U.S.C. 3801-3812

Provides federal administrative remedies for false claims and statements, including those made to federally funded health care programs. Current civil penalties are \$5,500 for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment. The amount of the false claims penalty is to be adjusted periodically for inflation in accordance with a federal formula.

3. New Jersey Medical Assistance and Health Services Act –

Criminal Penalties, N.J.S. 30:4D-17(a)-(d)

Provides criminal penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt of payments or benefits: fine of up to \$10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both; (c) kickbacks, rebates and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

Civil Remedies, N.J.S. 30:4D-7.h., N.J.S. 30:4D-17(e)-(i); N.J.S. 30:4D-17.1.a.:

In addition to the criminal sanctions discussed in section 3 above, violations of N.J.S. 30:4D-17(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interest; (b) intentional violation: recovery of overpayments, interest, up to triple damages, and, as indicated in section V.D.8, below, a penalty (which was increased from \$2,000 to \$5,500 to \$11,000) for each false claim as a result of the NJ False Claims Act. Recovery actions are generally pursued

administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General's Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.

In addition to recovery actions, violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justice.

4. Health Care Claims Fraud Act N.J.S. 2C:21-4.2 & 4.3; N.J.S. 2C:51-5

Provides the following criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part with state funds:

a. A practitioner who knowingly commits health care claims fraud in the course of providing professional services is guilty of a crime of the second degree, and is subject to a fine of up to 5 times the monetary benefits obtained or sought to be obtained and to permanent forfeiture of his license;

b. A practitioner who recklessly commits health care claims fraud in the course of providing professional services is guilty of a crime of the third degree, and is subject to a fine of up to 5 times the pecuniary benefit obtained or sought to be obtained and the suspension of his license for up to 1 year;

c. A person who is not a practitioner subject to paragraph a. or b. above (for example, someone who is not licensed, registered or certified by an appropriate State agency as a health care professional) is guilty of a crime of the third degree if that person knowingly commits health care claims fraud. Such a person is guilty of a crime of the second degree if that person knowingly commits 5 or more acts of health care claims fraud, and the aggregate monetary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained;

d. A person who is not a practitioner subject to paragraph a. or b. above is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained.

5. The Uniform Enforcement Act

N.J.S. 45:1-21. b. and o.

Provides that a licensure board within the N.J. Division of Consumer Affairs "may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board" who as engaged in "dishonesty, fraud, deception, misrepresentation, false promise or false pretense; or has "[a]dvertised fraudulently in any manner."

6. N.J. Consumer Fraud Act

N.J.S. 56:8-2, 56:8-3.1, 56:8-13, 56:8-14 and 56:8-15

Makes unlawful the use of “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any items or services by a person, or with the subsequent performance of that person.

This law permits the N.J. Attorney General, in addition to any other penalty provided by law, to assess a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense. Restitution to the victim also can be ordered.

7. Conscientious Employee Protection Act,

“Whistleblower Act”, N.J.S.A. 34:19-4

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
- c. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
 - i. is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - ii. is fraudulent or criminal; or

iii. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergent in nature.

8. New Jersey False Claims Act,

N.J.S.A. 2A:32-1 et seq.

The New Jersey False Claims Act (NJFCA) was enacted in January, 2008 and became effective in March 2008. It has similar provisions to the federal False Claims Act. For example, The Attorney General may bring an action against an individual or entity that makes a false claim. In addition, the NJFCA also allows for individuals to bring a private right of action in the name of the State against wrongdoers and be able to collect a penalty from those wrongdoers. Under the NJFCA, the civil penalties were increased from to \$2,000 per false or fraudulent claim to the federal level which is currently \$5,500 to \$11,000 per false or fraudulent claim under the NJ Medical Assistance and Health Services Act.

The NJFCA provides that a person will be liable for the same penalties as under the federal False Claims Act but to the State of NJ if that person:

- a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;
- b. 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 State;
- c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
- d. Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
- e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity, makes or delivers a receipt without completely knowing that the information on the receipt is true;
- f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or

g. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

In addition to the above, the NJ False Claims Act has whistleblower protections within it similar to the ones under the federal False Claims Act.

E. Websites for Obtaining Additional Information:

Deficit Reduction Act – Public Law 109-171

www.gpoaccess.gov/plaws/index.html

New Jersey Statutes

www.njleg.state.nj.us

U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, Deficit Reduction Act

<http://www.cms.hhs.gov/DeficitReductionAct>