

TORRANCE MEMORIAL INTEGRATED PHYSICIANS

Policy/Procedure: **Fraud, Waste and Abuse**

POLICY:

It is the policy of TMIP ACO to operate all of its programs and services fully within the boundaries of all applicable federal and state laws and regulations. It is also the policy of TMIP ACO to support an ACO Personnel’s right to disclose information when they have reasonable cause to believe that a violation of state or federal law has occurred. ACO Personnel have the right to express their concerns about the safety or quality of care provided to our patients without the fear of retaliation.

PROCEDURE:

Reporting Potential Violations:

1. ACO Personnel are expected to perform their job duties free of fraud, abuse or any other improper practices and to report any potential violations. If an ACO Personnel reasonably believes they have been asked to do something illegal or has knowledge of a violation, or a potential violation, they should report the information to the Compliance Officer or to the Compliance Hotline at (855)226-5554 or Compliance Alert Website at www.tmmc.ethicspoint.com. The ACO Personnel’s confidentiality will be maintained to the fullest extent possible under the law.
2. ACO Personnel with concerns about the safety or quality of care provided to our patients are encouraged to report their concerns through their chain of command. ACO Personnel have the right to report their concerns to the appropriate public agency.

RETALIATION:

1. ACO Personnel will be protected from retaliation if they elect to disclose information when they have a reasonable cause to believe any of the above mentioned violations has occurred or is about to occur. Such disclosures should be made to the Compliance Officer or as described above. Investigation will be initiated immediately and appropriate feedback made to the reporting person.
2. ACO Personnel have the right to express their concerns about the safety or quality of care provided to our patients without the fear of retaliation.

INVESTIGATION OF POTENTIAL VIOLATIONS:

1. The Compliance Officer will investigate all allegations of ACO Personnel's activity involving fraud, waste, abuse or other related improper practices. If ACO Personnel is found to have committed fraud, waste, abuse or any other improper practices, ACO Personnel will be subject to remedial action.

RELEVANT LAWS:

Federal False Claims Laws

Civil False Claims Act; 31 U.S.C. §§ 3729 – 3733

The Federal Civil False Claims Act imposes civil liability on any person or entity who:

- Knowingly files a false or fraudulent claim for payments to Medicare, Medicaid or other federally funded health care programs;
- Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid, or other federally funded health care programs; or
- Conspires to defraud Medicare, Medicaid or other federally funded health care programs by attempting to have a false or fraudulent claim paid.

“Knowingly” means:

- Actual knowledge that the information on the claim is false;
- Acting in deliberate ignorance of whether the claim is true or false; or
- Acting in reckless disregard of whether the claim is true or false.

A person or entity found liable under the Civil False Claims Act is subject to a civil money penalty of between \$5,500 and \$11,000 plus three times the amount of damages that the government sustained because of the illegal act. In health care cases, the amount of the damages sustained is the amount paid for each false claim that is filed.

Anyone may bring a *qui tam* action under the Civil False Claims Act in the name of the United States in federal court. If the government proceeds with the case, the person who filed the action will receive between 15 percent and 25 percent of any recovery. If the government does not proceed with the case, the person who filed the action will be entitled to between 25 percent and 30 percent of any recovery, plus reasonable expenses and attorneys' fees and costs.

Program Fraud Civil Remedies Act; 31 U.S.C. §§ 3801 – 3812

The Program Fraud and Civil Remedies Act (PFCRA) creates administrative remedies for making false claims and false statements. These penalties are separate from and in addition to any liability that may be imposed under the Civil False Claims Act.

The PFCRA imposes liability on people or entities who file a claim that they know or have reason to know:

- Is false, fictitious, or fraudulent;
- Includes or is supported by any written statement that contains false, fictitious, or fraudulent information;

- Includes or is supported by a written statement that omits a material fact, which causes the statement to be false, fictitious, or fraudulent, and the person or entity submitting the statement has a duty to include the omitted fact; or
- Is for payment for property or services not provided as claimed.

A violation of this section of the PFCRA is punishable by a \$5,000 civil penalty for each wrongfully filed claim, plus an assessment of twice the amount of any unlawful claim that has been paid.

In addition, persons or entities violate the PFCRA if they submit a written statement that they know or should know:

- Asserts a material fact that is false, fictitious, or fraudulent; or
- Omits a material fact that they had a duty to include, the omission caused the statement to be false, fictitious, or fraudulent, and the statement contained a certification of accuracy.

A violation of this section of the PFCRA carries a civil penalty of up to \$5,000 in addition to any other remedy allowed under the laws.

Corresponding California Statutes:

- Government Code 12653
- Labor Code 1102.5
- Health and Safety Code 1278.5
- Insurance Code 1871.7
- Penal Code 550
- Welfare and Institutions Code 14107
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RELATED POLICIES

ACO Compliance Plan (TMIP ACO-COMP-001)

ACO Confidentiality (TMIP ACO-COMP-009)

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Initial Effective Date: 11/2018

Revised Effective Date(s): (for substantive changes)

Reviewed Date(s):

Revised Date(s):