

# COMMUNITY MEDICAL CENTER

## HEALTHCARE SYSTEM COMPLIANCE PROGRAM

Adopted by the Board of Directors, May 1998

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### CONTENTS

<b>APPENDIX A</b>	<b>DEFICIT REDUCTION ACT 2005</b>
<b>APPENDIX B</b>	<b>AFFECTED EMPLOYEES</b>
<b>APPENDIX C</b>	<b>ATTESTATION SHEET</b>

**I. Background:**

Community Medical Center Health Care System (“CMCHS”) is a regional health care system located in Scranton, Pennsylvania. In furtherance of its mission, CMCHS provides health care, community service and education. Community Medical Center, Community Medical Care, Inc, Medical Dimensions, Inc., Mountain View Care Center and Scranton Counseling Center (collectively referred to as the “System Entities”) are affiliated corporations of CMCHS, which comprise the regional health care system.

**II. Policy:**

CMCHS is committed to ethical and legal business practices as essential to the advancement of its health care mission. Pursuant to this commitment CMCHS directs the establishment and maintenance of the “Corporate Compliance Plan” which has been designed to conform to the standards set forth in the Federal Sentencing Guidelines for Organizations effective November 1, 1991. The Corporate Compliance Plan will be a CMCHS system wide plan, structured to encourage collaborative participation at all levels of the CMCHS and will operated under the authority of the CMCHS Board of Directors. The Plan will focus on the prevention of errors, related to federal, state and local laws and to foster an environment in which employees and physicians affiliated with CMCHS facilities are encouraged through education and training to perform their duties correctly.

**III. Compliance Program Purposes and Objectives:**

**A. Purposes:**

The purposes of the compliance program are:

1. to educate officers, directors, employees and physician affiliates of CMCHS concerning the legal risk of certain business practices; and to inform those individuals using CMCHS facilities of this compliance program.
2. to encourage CMCHS managers to seek appropriate advice on business activities and to conduct those activities within ethical standards of conduct and the requirements of the law;

3. to secure conformity with the Federal Sentencing Guidelines; and,
4. to make certain that CMCHS continues to be innovative and responsive to community needs and consumer demands in our various health care marketplaces without inadvertently violating these laws.

**B. Objectives:**

**In furtherance of CMCHS's mission and philosophy and in fidelity to good stewardship, CMCHS will exercise due diligence in striving to educate, motivate and monitor employees and agents in the performance of their duties to insure such duties are performed correctly, the first time.**

**IV. Implementation:**

**The Plan will be implemented over a period from the date of its adoption by the CMCHS Board of Directors, pursuant to the schedule attached hereto at Exhibit "A". The implementation schedule may be modified from time to time.**

**V. Administration:**

**The Plan will be administered by the Corporate Compliance Committee (the "Committee"). The Committee will be chaired and overseen by the President (CEO of Community Medical Center Healthcare System). The President and CEO will appoint the Administrative Director and Deputy Administrative Director of the Corporate Compliance Plan who may or may not be employees of the "System". The Administrative Directors of the Corporate Compliance Plan will be members of the Committee (and will be referred to in the remainder of this document as "The Administrative Directors"). The Administrative Director's primary functions include:**

- **Ensuring that the Compliance Program is being implemented.**
- **Monitors and evaluates the Compliance Program's implementation and progress.**
- **Periodically recommends revisions to the committee to meet changes in the organization's needs and the business and regulatory environment.**
- **Oversees the business practice issues to assure conformity with requirements of the Plan.**

- **Assures that any suspected action that does not conform to the compliance plan is taken to the Corporate Compliance Committee prior to being evaluated by counsel as a potential offense.**

**More specifically, the Administrative Directors and counsel, when appropriate shall:**

- **Be responsible for directing the effort to enhance compliance, including implementation of the Plan.**
- **Develop a process to identify those areas where there is substantial risk that certain types of errors may occur.**
- **Ensure the development of compliance standards and policies and procedures aimed at assuring ethical and legal compliance. Such policies and procedures may be developed through appointment of special task forces assigned to focus on identified risk areas, to develop standards, and to formulate appropriate policies, procedures and educational programs for ensuring staff understanding of ethical and legal standards.**
- **Encourage the development of compliance initiatives in each of the System Entities.**
- **Ensure that CMCHS's system-wide business practices are evaluated including the business practices of the Systems Entities, to ensure the proper implementation of the letter and the spirit of CMCHS's policies and procedures.**
- **Ensure consistency in the application of CMCHS policies and procedures with the requirements of the Plan through training and education. If, after training and education, applications are inconsistent, it may be necessary to implement appropriate corrective measures in accordance with applicable CMCHS Human Resources Policies.**
- **Ensure that reasonable steps are taken to respond appropriately to compliance concerns through additional education and training. If such additional education and training are ineffective, it may be necessary to implement appropriate corrective measures in accordance with applicable CMCHS Human Resources Policies.**
- **Oversee, as appropriate, investigations of compliance concerns to ensure consistency in the enforcement of CMCHS's policies.**
- **Maintain processes to provide education and guidance for adherence to CMCHS's Compliance Plan policies**

and oversee the business practice issues to assure conformity with requirements of the Plan.

- Be generally responsible to oversee the development and implementation of employee communications and training programs to ensure conformity with the Compliance Plan.
- Implement the internal and external monitoring and auditing systems to assess conformity and to identify compliance concerns.
- Report to the Committee activities of the Plan on an ongoing basis.
- Report the activities of the Plan to the CMCHS Board of Directors at least annually.

The membership of the Committee will be recommended by the President & CEO of CMCHS to the CMCHS Board of Directors on an annual basis. Additional individuals may be asked to participate with the Committee on an ad hoc nonvoting basis for particular areas of expertise. The Committee will meet on the call of the President/CEO or the Administrative Directors as needed, but at least twice annually for Plan review.

**VI. Standards of Conduct:**

CMCHS will strive to ensure that all activity by or on behalf of the organization is in conformity with applicable laws and appropriate ethical standards of behavior.

The following standards are intended to provide guidance to employees and management in administrative positions to assist them in their obligation to comply with applicable laws. These standards are neither exclusive nor complete. Employees, through education and training, will observe all applicable laws, whether or not specifically addressed in these policies. If questions arise regarding the existence of, or interpretation or application of any law, they should be directed to the Administrative Directors.

**A. Conformity with General Laws:**

All affected employees will receive education and training in order to conform to all applicable laws regulating the environment or business practices involved in the delivery of health care services. These laws include, but are not limited to, antitrust laws, conformity with Medicare/Medicaid Conditions of Participation, laws affecting tax-exempt corporations, laws affecting the regulation of the delivery of health care, including

licensing and accreditation by the Joint Commission on the Accreditation of Health Care Organizations, laws affecting employment, labor benefits and collective bargaining obligations, environmental laws and regulations, and other laws reflecting the relationship between CMCHS and the System Entities. Employees whose positions with CMCHS may impact the organization's conformity with such laws are expected to attend educational programs offered by CMCHS and to certify their intention to conform to the legal requirements and ethical standards of business behavior as required by this Compliance Plan.

**B. Antitrust:**

All affected employees will receive education and training in order to conform to the applicable antitrust and related laws, which regulate competition. Examples of conduct prohibited by these laws include: 1) agreements to fix prices, bid rigging, collusion (including price sharing) with competitors; 2) boycotts, certain exclusive dealing in price discrimination agreements; and 3) unfair trade practices including bribery, misappropriation of trade secrets, deception, intimidation and similar unfair business practices. Employees whose positions with CMCHS may be impacted by the application of such antitrust laws are expected to attend antitrust educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Director when confronted with business decisions involving a risk of violation of these antitrust laws.

**C. Medicare/Medicaid Compliance:**

All affected employees will receive education and training in order to comply with applicable laws affecting the qualification of CMCHS's and the System Entities participation in the Medicare/Medicaid programs. Employees whose positions with CMCHS may impact such laws, are required to attend Medicare/Medicaid conformity educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Director when confronted with business decisions involving a risk of violations of these laws.

**1. Billing:**

**All affected employees will receive education and training in order to comply with applicable reimbursement policies and procedures for the submission of claims. All physician professional services provided will be properly documented; all bills will accurately reflect the documented services provided; and only accurate and properly documented services will be billed. Any late entries or marginal notes in the medical record need to be noted and explained. Bills will be submitted only when appropriate documentation has been maintained and is available for audit and review. Employees who positions with CMCHS may impact such laws, are required to attend billing compliance educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Directors when confronted with business decisions involving a risk of violations of these laws.**

**2. Coding:**

**All affected employees will receive education and training in order to comply with applicable regulations and procedures with respect to coding. All physician professional services provided will be properly documented and will accurately reflect the documented services provided, especially with regards to DRG coding, individual Medicare Part B claims, patient discharge and continuing education requirements. Employees whose positions with CMCHS may impact such laws, are required to attend coding compliance educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Directors when confronted with business decisions involving a risk or violations of these laws.**

**D. Labor Laws:**

**All affected employees will receive education and training in order to comply with applicable labor and related laws, which regulate employment. Examples of conduct protected by these laws include conformity with wage and hour requirements, employment laws, state and federal civil rights laws, including**

laws protecting employees from sexual harassment, collective bargaining and union laws, as well as laws protecting employees from arbitrary termination of employment. Employees whose positions with CMCHS may be impacted by the application of such labor laws are expected to attend labor/employment law educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Directors when confronted with business decisions involving a risk of violation of these labor/employment laws.

E. **Environmental Laws:**

All affected employees will receive education and training in order to comply with applicable environmental and related laws, which regulate the environment. Examples of these include laws prohibiting the discharge of materials into the air or water, and laws protecting employees and patients from exposure to toxic and other environmental exposures. Employees whose positions with CMCHS may be impacted by the application of such environmental laws are expected to attend environmental educational programs offered by CMCHS and to certify their participation in such educational programs. Employees are expected to seek advice from the Administrative Directors when confronted with business decisions involving a risk of violation of these environmental laws.

**VII Plan Program:**

The Plan's program consists of five elements: hiring and contracting, educating, reporting, auditing, and investigating and enforcing. Set forth below is a summary of each of the elements.

A. **Hiring and Contracting:**

CMCHS will not employ, or contract for services on CMCHS's behalf, an individual, entity, or physician whom CMCHS knows or reasonably should know has been convicted of a criminal offense related to a government program or listed by a federal agency as debarred, excluded, sanctioned or otherwise ineligible for participation in a governmental program. In order to carry out this policy, CMCHS and the System Entities will make reasonable inquiry into the status of every potential physician employee and staff employee.

CMCHS and the System Entities will make all persons and entities with which it has, may or will enter into a relationship whereby such person or entity is or will be an agent or independent contractor of CMCHS or the System Entities aware of its established standards for legal conformity and of the existence and content of the Plan. CMCHS and the System Entities will at all times require that their agents, independent contractors and other parties with whom they have a similar relationship adhere to the Plan. Further, CMCHS and the System Entities will not retain or enter into a relationship with any person, physician or entity, which is sanctioned, excluded or debarred from any federal or other program for professional fee reimbursement, and they will each take any and all reasonable steps to ascertain whether such person or entity is properly licensed. Failure of such person or entity to comply with the standards set forth in the Plan will constitute grounds for termination of such relationship.

**B. Educating:**

**1. All Affected Employees (as defined in Appendix A) of the System Entities.**

All affected employees (as defined in Appendix A) of the System Entities will receive initial training and departmental specific training and education regarding the Plan. Such initial training and education will include: (a) dissemination of the Plan to all employed physicians and affected staff employees for their personal use and reference; (b) seminars at which, among other things, the content and application of the Plan and the internal reporting and investigation procedures will be described and discussed at which employed physicians, staff employees may ask any questions regarding the Plan; (c) training in corporate ethics and (d) department-specific training and education in identified high-risk areas. Attendance is mandatory for all affected employees. The Committee will be responsible for the development of this initial educational session. The System Entities, with input from the Committee, will be responsible for the department-specific training for all employed physicians and staff employees.

Upon completion of the initial training and education seminar regarding the Plan, each affected employee of the System Entities will sign a certification, in the form attached hereto at to Appendix B, acknowledging that they have received, read and understand

the Plan, have attended a seminar regarding the Plan, understand the conformity with the Plan's condition of employment and understand that CMCHS and/or the System Entity will take action in accordance with CMCHS Human Resources Policies for violation of the principles and practices set forth in the Plan, or retained by CMCHS for six years.

2. New Affected Employees (as defined in Appendix A).

Within 90 days of hiring a new employee physician or affected staff employee, each will receive a copy of the Plan and receive department-specific training and education regarding the Plan. After discussing the Plan with their immediate supervisor, Administrative Directors, each new affected employee will sign a certificate as described in Section B.1, above.

3. Continuing Training and Education.

At least once in each calendar year commencing in 1998, and more frequently with affected employees involved with coding and billing, each manager, employee physician and affected staff employee will participate in a continuing training and education session regarding the Plan as well as updated information regarding the Plan. In addition, each affected employee will sign a certificate attesting that they have read the Plan and understand the additional information provided. Such additional training and education will focus upon issues raised or identified through the Committee during the previous year as well as recent results of audits, changes in laws, regulations, enforcement or interpretations thereto. Similarly, each affected employee will certify that they attended and understand the content of the continuing training and education program. Continuing education and training will be the mutual responsibility of the Committee and System Entities.

4. Documentation.

All seminars, training and continuing education sessions will be documented by the person(s) conducting the seminar training session. Documentation will include the topic and date of the session as well as the names of the persons attending. Records will be forwarded to the Deputy Administrative Director and retained for six years by CMCHS. Adherence to the requirements of the Compliance Plan will be considered in the annual evaluation of each affected employee.

**C. Reporting.**

A variety of means will be established throughout CMCHS to solicit communications from employees, third-party contractors, and physicians encouraging questions on certain policies and procedures and the reporting of actual or suspected compliance concerns or applicable CMCHS policies without fear of retribution. Reporting will include (1) the establishment of a written procedure (drop box) and a telephone hot line, with message accessible solely by an appropriate individual, and (2) the establishment of an employee exit and post employment program through the Human Resources Department with written reports made to the Administrative Directors raising possible conformity issues. Matters reported through the hotline or other communications sources that suggest errors of conformity to policies, regulations or laws should be documented and investigated immediately to determine their veracity. A log should be maintained by the Deputy Administrative Director, which records matters that have been reported, the investigations, and their results. These logs should be included in any reports to the Administrative Director or the Committee.

The drop box and the information hotline may be used anonymously, although anonymity cannot be guaranteed. The identity of physician and staff employees who utilize the drop box and/or information hot/line and disclose their identity (or whose identity is obvious) will be maintained with strict confidentiality.

**D. Auditing.**

The Administrative Directors are responsible for ensuring that the Plan is followed and that it serves as an effective tool in detecting and preventing errors or unethical conduct by physicians and staff employees of CMCHS and the System Entities. In satisfying this responsibility, the Administrative Directors, under the direction of the Committee, will conduct a thorough review of the Plan on at least an annual basis and more frequently as the Committee and/or the Audit Committee of CMCHS deems necessary or advisable. This review will focus on areas in which issues have been raised since the previous review.

Upon completion of the review, the Administrative Directors will present to the Committee a written report setting forth the results of the reviews, identifying any areas requiring action and stating any suggestions for improved conformity. Based on the report findings, the Administrative Directors, will meet with the Committee and the Committee will then make such recommendations to the Board as

deemed necessary or advisable. Recommendations may be made regarding, for example, topics for additional training and education, amendments to the Plan and/or existing policies, and the advisability of disclosure of violations to third parties. The Administrative Directors may, if necessary, propose to the Committee, for review and consideration, a corrective action plan. The Committee will make final determination concerning the adoption of such a plan. Upon approval by the Committee and under the guidance of the Administrative Directors, the System Entities will take such action as is necessary or appropriate to implement the corrective action plan in a prompt and efficient manner.

E. **Investigating, Enforcing and Reporting.**

1. **Process:**

Overall inquiry and implementation of the Plan is the responsibility of the Administrative Directors. After adequate education and training of affected employees, implementation of the Plan will be carried out in accordance with, and subject to, CMCHS's Employee Handbook, Human Resources Policy and Procedures Manual, and Medical Staff Bylaws, Medical Staff Rules and Regulations, System Entity policies, and written employment agreements, which may be amended from time to time. The Administrative Directors will endeavor to investigate any alleged violation of the Plan or of any policy issued in accordance with the Plan in an efficient and thorough manner.

2. **Corrective Measures:**

Following a complete and detailed investigation of an alleged violation of the Plan (which proves in fact to be "a violation" despite prior education and training) disciplinary measures may be imposed in accordance with CMCHS Human Resources Policies and Procedures, and/or the Medical Staff Bylaws, Rules and Regulations. Such measures are listed in detail in those documents. Corrective measures will be decided upon by the Committee in its discretion and in accordance with the aforementioned documents. In the case of a staff physician, such measures will be in accordance with applicable sections of the CMCHS Medical Staff Bylaws, Rules and Regulations or the physician's written employment agreement. In the case of a staff physician who is also an "employee" of CMCHS, and the violation involves "employment duties" then the CMCHS Human Resources Policy and Procedures will apply. (In some cases involving physicians, both aforementioned documents may apply).

To the extent possible, the Committee will apply such corrective measures consistent with CMCHS Human Resources Policy and Procedures and the Medical Staff Bylaws and Rules and Regulations.

**3. Documentation:**

The corrective action must be carefully documented. A file will be opened for each report made regarding a possible violation of the Plan and the file will contain a statement of the reported incident(s), a description of the investigation and the results thereof, including statements of the individual(s) involved, the conclusion reached and corrective measures (if any). This information will, upon completion of the investigation, become part of the employee's official personnel file. If the investigation results in no violation of the Plan, all documents regarding the incident will be removed from employee's official personnel file who were found "not in violation of the Plan".

**4. Reporting:**

If, after an appropriate investigative inquiry the Administrative Directors report to the Committee that a violation of the Plan has indeed occurred, despite education and training efforts, the Committee will review the facts of the case. The Committee will request an opinion from approved outside legal counsel to confirm if:

- (1) there has been a violation of criminal laws or;
- (2) there has been a violation of civil or administrative law.

If either case is affirmed by legal counsel, the Committee will recommend appropriate reporting measures to the Hospital. The Hospital will take appropriate reporting measures within a reasonable time period, but no more than thirty (30) days after discovering the alleged violation. Once reported, the Administrative Directors will continue to investigate the reported violation and present a final report to the Committee. The Committee, in consultation with legal counsel, will notify the Hospital of the final report and recommended reporting procedures. Such a final report from the Hospital will include a description of the effect of the incident on the operation of the health care program or its beneficiaries.

**5. Administrative and Supervisory Responsibility.**

**It is the leadership policy of CMCHS and the System Entities to expect its managers, administrators and other individuals in administrative or supervisory positions to accept responsibility and accountability for insuring the education, training and conduct of their employees and/or their subordinates as may be applicable. Accordingly, CMCHS Human Relations Policies will apply to such individuals in administrative or supervisory positions who, after receiving appropriate education and training, fail to detect, prevent or appropriately respond to situations, which violate this Plan.**

### **CONCLUSION**

**The Plan contains various program components designed to aid CMCHS in attaining its mission and goals by ensuring that the System Entities follow applicable laws, rules and regulations. The Plan is intended to be an integral part of the operations of the System Entities and to be flexible enough to adapt both to the changing needs of CMCHS and the System Entities and to changes in the laws, rules, and regulations.**

Approved: /S/ C. Richard Hartman, M.D., President & CEO: 5/1/1998

Approved: \_\_\_\_\_: 12/15/2006 (Revised)

**JOHN NILSSON  
Interim President & CEO**

**APPENDIX A**  
**DEFICIT REDUCTION ACT 2005**

**POLICY:**

It is the policy of Community Medical Center Healthcare System (“CMCHS”) to implement Section 6032 of the Deficit Reduction Act of 2005 which requires CMCHS to adopt written policies that inform all employees, including management, contractors, physicians, and agents about the federal and state false claims laws and about the whistleblower provisions in those laws. This policy provides information about the federal and state false claims laws, including the whistleblower provisions in those laws. This policy includes a summary of CMCHS’s Compliance Plan and Code of Conduct, describing CMCHS’s established methods of preventing fraud and abuse. This same information will be restated in the employee’s handbook.

**PROCEDURE:**

As required by 42 U.S.C. 1396a(a)(68), CMCHS will provide the following detailed information to all employees, contractors and agents about federal and state false claims laws and CMCHS’ s established procedures to detect and prevent fraud, waste and abuse. More detailed information may be found in the CMCHS Corporate Compliance Plan and the CMCHS Code of Conduct.

**1. FEDERAL FALSE CLAIMS ACT (31 U.S.C. 3729)**

The federal False Claims Act, among other things, applies to the submission of claims by health care providers for payment of Medicare, Medicaid and other federal and state health care programs. The False Claims Act is the federal government’s primary civil remedy for improper or fraudulent claims. It applies to all federal programs, from military procurement contracts to welfare benefits to health care benefits. The fines include a penalty of up to three times the Government’s damages, civil penalties ranging from \$5,500 to \$11,000 per false claim, and the costs of the civil action against the entity that submitted the false claims.

**2. PROHIBITIONS OF THE FEDERAL FALSE CLAIMS ACT**

The False Claims Act prohibits, among other things:

- (a) Knowingly presenting or causing to be presented to the federal Government a false or fraudulent claim for payment or approval;
- (b) Knowingly making or using, or causing to be made or used, a false record or statement in order to have a false or fraudulent claim paid or approved by the Government;

(c) Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid; and

(d) Knowingly making or using, or causing 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 Government.

“Knowingly” means 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.

### **3. ENFORCEMENT**

The United States Attorney General may bring civil actions for violations of the False Claims Act. As with most other civil actions, the government must establish its case by presenting a preponderance of the evidence rather than by meeting the higher burden of proof that applies in criminal cases.

### **4. “WHISTLEBLOWER” PROVISION (QUI TAM PROVISION) OF FALSE CLAIMS ACT**

Under the False Claims Act, a private person with knowledge of a false claim is allowed to bring a civil action on behalf of the United States Government. The purpose of bringing a qui tam suit is to recover the funds paid by the Government as a result of the false claims. Sometimes the United States Government decides to join the qui tam suit. If the suit is ultimately successful, the whistleblower who initially brought the suit may be awarded a percentage of the funds recovered. Because the Government assumes responsibility for all the expenses associated with a suit when it joins a false claims action, the percentage is lower when the Government joins a qui tam claim. However, regardless of whether the Government participates in the lawsuit, the court may reduce the whistleblower’s share of the proceeds if the court finds the whistleblower planned and initiated the false claims violation. Further, if the whistleblower is convicted of criminal conduct related to his role in the preparation or submission of the false claims, the whistleblower will be dismissed from the civil action without receiving any portion of the proceeds.

### **5. PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986**

The Program Fraud Civil Remedies Act of 1986 (PFCRA) authorizes federal agencies such as the Department of Health and Human Services (“HHS”) to investigate and assess penalties for the submission of false claims to the agency. The conduct prohibited by PFCRA is similar to that prohibited by the False Claims Act. For example, a person may be liable under the PFCRA for making, presenting, submitting, or causing to be made, presented, or submitted, a claim that the person knows or has reason to know:

- (a) Is false, fictitious, or fraudulent;
- (b) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
- (c) Includes or is supported by any written statement that:
  - (aa) Omits a material fact;

(bb) Is false, fictitious, or fraudulent as a result of such omission; and  
(cc) Is a statement in which the person making, presenting or submitting  
(dd) Is for payment for the provision of property or services that the  
such statement has a duty to include such material fact; or person has not provided as  
claimed.

If a Government agency suspects that a false claim has been submitted, it can appoint an investigating official to review the matter. The investigating official may issue a subpoena to further the investigations, or may refer the matter to the Department of Justice for proceeding under the False Claims Act.

If, based on the investigating official's report, an agency concludes that further action is warranted, it may issue a complaint (following approval from the Department of Justice) regarding the false claim. A hearing would be held, following the detailed due process procedures set forth in the regulations implementing the PFCRA. A violation of the PFCRA results in a maximum civil penalty of \$5,000 per claim plus an assessment of up to twice the amount of each false or fraudulent claim.

#### **6. STATE LAW (62 P.S. 1407; 55 Pa. Code 1101.75)**

There can also be liability under the state for false or fraudulent claims with respect to Medicaid program expenditures, including:

a. Knowingly or intentionally present for allowance or payment a false or fraudulent claim or cost report for furnishing services or merchandise under MA, knowingly present for allowance or payment a claim or cost report for medically unnecessary services or merchandise under MA, or knowingly submit false information, for the purpose of obtaining greater compensation than that to which the provider is legally entitled for furnishing services or merchandise under MA.

b. Submit a duplicate claim for services or items for which the provider has already received or claimed reimbursement from a source.

c. Submit a claim for services or items which were not rendered by the provider or were not rendered to a recipient.

d. Submit a claim for services or items which includes costs or charges which are not related to the cost of the services or items.

e. Submit a claim or refer a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are not medically necessary.

f. Submit a claim which misrepresents the description of the services, supplies or equipment dispensed or provided, the date of service, the identity of the recipient or of the attending, prescribing, referring or actual provider.

g. Submit a claim for a service or item at a fee that is greater than the provider's charge to the general public.

h. Enter into an agreement, combination or conspiracy to obtain or aid another in obtaining payment from the Department for which the provider or other person is not entitled, that is, eligible.

This is a criminal statute, violations of which are punishable by seven years imprisonment and/or a \$15,000 fine. In addition, the sentencing judge is required to order the convicted person to repay the amount of excess benefits or payments plus interest on that amount at the maximum legal rate, plus to pay an amount of up to three times that amount. Furthermore, the convicted person is ineligible to participate in Medicaid for a period of five years from the date of conviction.

## **7. PROTECTION FOR "WHISTLEBLOWERS"**

Federal and state law and CMCHS policy prohibit any retaliation or retribution against persons who report suspected violations of these laws to law enforcement officials or who file "whistleblower" lawsuits on behalf of the government. Anyone who believes that he or she has been subject to any such retribution or retaliation should report this to the Compliance Hot Line.

**a. FEDERAL FALSE CLAIMS ACT.** Under the federal False Claims Act, any employee who is discharged, demoted, suspended, threatened, harassed or discriminated against in his employment as a result of the employee's lawful acts in furtherance of a false claims action is protected from retaliation. The whistleblower may bring an action in the appropriate federal district court and is entitled to reinstatement with the same seniority status, two times the amount of back pay, interest on the back pay, and compensation for any special damages as a result of the discrimination, such as litigation costs and reasonable attorneys fees.

**b. STATE LAW.** In 1986 the Pennsylvania legislature enacted Pennsylvania's "Whistleblower Law", declaring it unlawful for any employer to "discharge, threaten or otherwise discriminate or retaliate" against an employee in compensation or in terms of conditions of employment because the employee has made, or is about to make, a good faith report to the employer or to an "appropriate authority" about an instance or "wrongdoing or waste". The Act, codified at 43 P.S. 1421, et seq., also renders it unlawful for an employer to discriminate or retaliate against an employee because he or she has been requested by an appropriate authority to participate in an investigation hearing or inquiry regarding the employer's alleged wrongdoing or waste.

(1) Waste. In order to be entitled to whistleblower protection on grounds of a report of waste, it is not enough that the employee has complained of an employer or supervisor's inefficient business practices. The Whistleblower Law is only concerned with the abuse of government funds. Accordingly, the employee is not entitled to

whistleblower protection unless the reported waste involves an abuse, misuse, destruction, or loss of funds of property derived from state or municipal sources.

(2) Wrongdoing. In order for a report of wrongdoing to afford an employee with whistleblower protection, the alleged wrongdoing must be a violation of a federal or state statute, regulation, or a municipal ordinance or code of conduct or ethics “designed to protect the interests of the public or the employer” and which is “not of a merely technical or minimal nature”. Thus, where an employee of a nursing home that has contracted with a municipal government reports substantial violations of numerous health and safety requirements, that employee will be entitled to protection under the Whistleblower Law. However, where an employee simply reports violations of a company’s internal policies not embodied within any particular statute or regulation, such a report does not entitle the employee to whistleblower protection. Unless a particular statute or regulation prohibits particular conduct, the Whistleblower Law does not apply.

(3) Good Faith Reporting. To be entitled to whistleblower protection, it is not enough that an employee alleges waste or wrongdoing within the meaning of the statute. The employee must have reasonable cause to believe the report is true, and must make the report without malice or consideration of personal gain.

(4) Remedies and Burden of Proof. Any person who has been harmed by a violation of the Whistleblower Law may bring a lawsuit against the employer, but must do so within a 180-day deadline set forth in the Act’s statute of limitations. In any civil action under the Act, the employee alleging violation of the Act must show by a preponderance of the evidence that prior to the employer’s alleged retaliatory action, the employee, in good faith, had reported or was about to report an instance of wrongdoing or waste to the employer or to an appropriate authority. Once the employee satisfies this rather minimal burden of proof, the burden shifts to the employer to prove by a preponderance of the evidence that the action the employer took against the employee was for separate and legitimate reasons, and not in retaliation for the reported waste or wrongdoing. As a practical matter, a Pennsylvania employer cannot safely fire an employee in the immediate aftermath of a report of waste or wrongdoing unless it can be shown that the employee engaged in some egregious misconduct unrelated to the employee’s report.

(5) Enforcement. The Whistleblower Law provides for civil penalties against an employer for having violated the law. The remedies for an employee who sues as a private litigant include reinstatement of employment, the payment of back wages, the reinstatement of fringe benefits and seniority rights, and any other actual damages including reasonable attorney’s fees.

## **8. CMCHS METHODS OF PREVENTING FRAUD AND ABUSE**

CMCHS takes issues regarding false claims and fraud and abuse very seriously and is committed to ethical and legal business practices as essential to the advancement of its health care mission. Pursuant to this commitment CMCHS has established and maintains a Corporate Compliance Plan, which has been designed to conform to the standards set

forth in the Federal Sentencing Guidelines for Organizations effective November 1, 1991. The Plan focuses on the prevention of errors related to federal, state and local laws and fosters an environment in which employees and physicians affiliated with CMCHS are encouraged through education and training to perform their duties correctly and with integrity. The Plan is based on seven elements, (1) the development and distribution of written standards of conduct, as well as written policies and procedures that promote CMCHS's commitment to compliance, (2) designation of a compliance officer and appropriate committees that are responsible for operating and monitoring the compliance program; (3) effective education and training programs for all affected employees; (4) maintenance of a process to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation; (5) development of a system to respond to allegations of improper/illegal activities and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable statutes, regulations or applicable federal health care program requirements; (6) the use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas; and (7) the investigation and remediation of identified systemic problems and the development of policies addressing the non-employment of sanctioned individuals.

**Reporting Concerns Regarding Fraud, Abuse and False Claims**

Under CMCHS's Compliance Plan, if any employee has knowledge or information that any fraudulent activity may have taken place, the employee should notify his or her supervisor or call the CMCHS Compliance Hot Line at 1-800-345-8382 or enter the information into the CMCHS Compliance Web Site at [www.MyComplianceReport.com](http://www.MyComplianceReport.com) and enter the ACCESS ID as CMC. There is also a "Drop Box" for compliance violation notices located just outside the door to the Cafeteria on Level B of the Hospital. Information reported may be anonymous, or you may leave your name if you wish to speak directly to a CMCHS Compliance Officer.

For detailed information regarding CMCHS's policies, please refer to the CMCHS Compliance Plan and the CMCHS Code of Conduct Policy and Procedures.

## **APPENDIX B**

### **CMCHS'S AFFECTED JOB CLASSIFICATIONS**

**CMCHS ENTITIES INCLUDING, CMC HOSPITAL, MOUNTAIN VIEW CARE CENTER, CMCI, SCRANTON COUNSELING CENTER**

**Senior Management  
Management  
Supervisors  
Employed Physicians  
Finance Staff  
Billing Staff  
Medical Records Staff**

**All employees who, may in the course of their employment enter into any entity computer or into any entity form patient or corporate information regarding:**

**Patient data including pre-admission, ER admissions, direct admissions, same day surgery admissions, same day medical procedure admissions.**

**Charge or credit data for any patient test, procedure, operation, equipment, supply, or service.**

**Purchase orders for items of supply or equipment directly to outside vendors or suppliers.**

**Receipt of bulk items of supplies from outside vendors or suppliers.**

**Process applications to join the Medical Staff.**

**Process applications for employment with CMCHS**

**Process contracts with vendors and/or contractors for outside services of any sort.**

**In addition those employees who in the course of their employment are involved in:**

**Management of Environmental Laws, Rules and Regulations.  
Management of Labor Laws.**

**APPENDIX C**  
**EMPLOYEE/PHYSICIAN CERTIFICATION OF**  
**CONFORMITY WITH CMCHS's CORPORATE**  
**COMPLIANCE PLAN, CODE OF CONDUCT, AND**  
**THE DEFICIT REDUCTION ACT OF 2005**

I certify that I have received a copy of the Corporate Compliance Plan of Community Medical Center Health Care System, the Code of Conduct Policy and Procedures, and the Deficit Reduction Act of 2005, that I have read, understand, and have been instructed in the details of these documents, and have been given the opportunity to ask questions, and I agree to comply with these documents.

I certify my intention to act in complete conformity with these documents and, where necessary, to seek assistance from the Administrative and Deputy Corporate Compliance Officers concerning appropriate actions that I may need to take in order to comply with these documents.

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Print Name

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Signature

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Date