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NOTICE TO ALL CONTRACTORS, AGENTS AND VENDORS

Oconee Regional Medical Center (ORMC) is committed to providing healthcare services in compliance with all state and federal laws governing its operations, and consistent with the highest standards of business and professional ethics. As part of the effort to reduce fraud and abuse in the Federal healthcare programs, the OIG and the Department of Justice use the False Claims Act and other authorities to sanction healthcare providers that have knowingly submitted false claims to Medicare. In addition to the imposition of monetary penalties, the OIG is authorized to exclude providers that violate the False Claims Act from participation in Medicare and other Federal healthcare programs.

ORMC does not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a person who makes a report as a “whistleblower,” provided the person has a reasonable belief the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI in violation of the HIPAA Privacy Rule.

ORMC has established a confidential toll free telephone number, known as the Values Line (800-273-8452), which is available at any time to report suspected compliance violations including, but not limited to, those involving billing and claims submission, fraud and abuse, and violations of laws and regulations. All reports made to the Values Line will be investigated in a prompt and reasonable manner.

ORMC fosters a work environment free of harassment and will not tolerate harassment based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, protected activity (i.e., opposition to prohibited discrimination or participation in a complaint process) or other protected bases from anyone in the workplace including, but not limited to, supervisors, co-workers, contractors or vendors.

Policy #ADM-CL-001 of Oconee Regional Health Systems, Inc., sets forth the Employee Education Provisions of the Deficit Reduction Act of 2005, which is applicable to all contractors, vendors and agents of Oconee Regional Medical Center. The policy in its entirety follows:

OCONEE REGIONAL HEALTH SYSTEMS, INC.

POLICY AND PROCEDURE

OCONEE REGIONAL MEDICAL CENTER

**SUBJECT: Employee Education Provisions of the
Deficit Reduction Act of 2005**

POLICY: ADM-CL-001

Applies To: All Departments

Approved By: Chief Executive Officer

Revision Date: Original

Department: Administration

PURPOSE:

To reinforce the Employee Handbook addition, dated December, 2006, and to ensure Oconee Regional Medical Center, Inc. (ORMC) ongoing compliance with all applicable federal, and state laws and regulations.

POLICY:

It is the policy of ORMC to obey the law and to comply with all federal and state requirements with respect to payments to ORMC from federal or state programs providing payment for patient care. Numerous federal and state laws prohibit healthcare providers from submitting false or “fraudulent” claims for payment to public healthcare programs funded by taxpayer dollars. Primary among these are the federal statutes and regulations that apply to claims submitted to Medicare and Medicaid and other federally funded programs. The laws described in this policy create a comprehensive process for controlling waste, fraud and abuse in federal and state health care programs. The policy applies to all employees, management, contractors and agents of ORMC and, by reference, is included in the ORMC Employee Handbook, and is made available to all contractors and agents.

I. Federal False Claims Act

The federal False Claims Act, among other things, applies to the submission of claims by healthcare providers for payment by Medicare, Medicaid and other federal and state healthcare 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 healthcare benefits. False claims can take the form of overcharging for a product or service, delivering less than the promised amount or type of service, delivering less than the promised amount of goods, underpaying money owed to the government and charging for one thing while providing another.

A. Prohibitions of the Federal False Claims Act

The False claims Act prohibits, among other things:

1. knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
2. 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;
3. conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
4. 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.

B. 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. The False Claims Act allows private individuals to bring actions for violations of the Act.

C. Penalties

The Federal False Claims Act imposes civil penalties and is not a criminal statute. Therefore, no proof of specific intent as required for violation of a criminal statute is necessary.

Persons (including organizations such as hospitals) may be fined a civil penalty of not less than \$5,000 nor more than \$10,000, plus three (3) times the amount of damages sustained by the government for each false claim. The amount of damages in healthcare terms is the amount paid for each false claim that is filed.

D. Responsibility of Hospital Employees

If any employee has knowledge or information that any such activity may have taken

place, the employee should notify his/her supervisor, the Compliance Officer, or call the **Values Line** at **800-273-8452**. Information reported to the Values Line may be done so anonymously.

E. Non-Retaliation

Federal and state laws, and ORMC policy, prohibit any retaliation or retribution against any persons who report suspected violations of those laws to law enforcement officials or who file lawsuits on behalf of the government. Anyone who believes that he/she has been subject to any such retribution or retaliation should also report this to the **Values Line**.

II. 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, in addition to, the judicial or court remedy for false claims provided by the Civil False Claims Act.

A. Prohibitions of the Program Fraud Civil Remedies Act

The conduct prohibited by the PFCRA is similar to that prohibited by the False Claims Act. For example, a person may be liable under the PFCRA for making, presenting, or submitting, or causing to be made, presented, or submitted, a claim that the person knows or has reason to know:

1. is false, fictitious, or fraudulent;
2. includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
3. includes or is supported in any written statement that –
 - a. omits a material fact;
 - b. is false, fictitious, or fraudulent as a result of such omission; and
 - c. is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
4. is for payment for the provision of property or services which the person has not provided as claimed.

B. Enforcement

If a government agency suspects that a false claim has been submitted, it can appoint

an investigating official to review the matter. If further action is warranted, a hearing would be held as outlined under the PFCRA.

III. State Law

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

1. knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval to the Medicaid program;
2. knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Medicaid program;
3. conspiring to defraud the Medicaid program by getting a false or fraudulent claim allowed or paid;
4. knowingly making, 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 Medicaid program.

“Knowing” and “knowingly” means that a person, with respect to information:

- a) has actual knowledge of the information;
- b) acts in deliberate ignorance of the truth or falsity of the information; or
- c) acts in reckless disregard of the truth or falsity of the information..

Protections similar to those in the Federal False Claims Act regarding non-retaliation are available under State law

B. Georgia Anti-Fraud Law and Training Requirements Related to Health Care

1. O.C.G.A 49-4-146.1. Unlawful to obtain benefits and payments under certain circumstances; penalties; procedures

This Georgia statute can be described as Georgia’s Medicaid Unlawful Payment Statute. Only part of the statute is included in this policy.

O.C.G.A. 49-4-146.1 (b) provides that it shall be unlawful:

- (1) For any person or provider to obtain, attempt to obtain, or retain for himself, herself, or any other person any medical assistance or other benefits or payments under this article, or under a managed care program

operated, funded, or reimbursed by the Georgia Medicaid program, to which the person or provider is not entitled, or in an amount greater than that to which the person or provider is entitled, when the assistance, benefit, or payment is obtained, attempted to be obtained, or retained, by:

- (A) Knowingly and willfully making a false statement or false representation;
 - (B) Deliberate concealment of any material fact; or
 - (C) Any fraudulent scheme or device; or
- (2) For any person or provider knowingly and willfully to accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled, or knowingly and willfully to falsify any report or document required under this article.

Any person violating paragraph (1) or (2) shall be guilty of a felony and, upon conviction thereof, shall be punished for each offense by a fine of not more than \$ 10,000.00, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment. The statute is a criminal statute and, the state has the burden of proving beyond a reasonable doubt that the defendant intentionally committed the acts for which he or she is charged. In addition to criminal penalties, any person committing abuse shall be liable for a civil monetary penalty equal to two times the amount of any excess benefit or payment.

“Abuse” is defined in the statute as a provider knowingly obtaining or attempting to obtain medical assistance or other benefits or payments under this article to which the provider knows he or she is not entitled ... and the assistance, benefits, or payments directly or indirectly result in unnecessary costs to the medical assistance program.” Isolated instances of unintentional errors in billing, coding, and costs reports shall not constitute abuse. Miscoding shall not constitute abuse if there is a good faith basis that the codes used were appropriate under the department's policies and procedures manual and there was no deceptive intent on the part of the provider.

In addition to any other penalties provided by law, each person violating this law shall be liable for a civil penalty equal to the greater of (1) three times the amount of any such excess benefit or payment or (2) \$ 1,000.00 for each excessive claim. Additionally, interest on the penalty shall be paid at the rate of 12 percent per annum.

2. Georgia has a Patient Self Referral Act which, while similar to the federal Stark law in some ways, it is significantly different in terms of when it applies and to whom it applies. It can be found at O.C.G.A. § 43-1B-1. It is not included in this

policy since it addresses more financial arrangements and investment interest issues by physicians.

3. GA ADC 290-9-7-.12. Human Resources Management.

Georgia hospital licensing regulations require hospitals to train its employees on the hospital's policies and procedures. Specifically, GA ADC 290-9-7.12 pertains to Personnel training programs and provides that:

(d) Personnel Training Programs. The hospital shall have and implement a planned program of training for personnel to include at least:

1. Hospital policies and procedures;
2. Fire safety, hazardous materials handling and disposal, and disaster preparedness;
3. Policies and procedures for maintaining patients' medical records;
4. The infection control program and procedures; and
5. The updating of job-specific skills or knowledge.

4. GA ADC 290-9-7-.41. Enforcement of Rules and Regulations.

Georgia's hospital licensing regulations also contains enforcement provisions. GA ADC 290-9-7.41 provides "A hospital that fails to comply with these rules and regulations shall be subject to sanctions and/or permit revocation as provided by law. The enforcement and administration of these rules and regulations shall be as prescribed in the Rules and Regulations for Enforcement of Licensing Requirements, Chapter 290-1-6, pursuant to [O.C.G.A. Sec. 31-2-6.](#)"

REVIEW RESPONSIBILITIES:

Compliance Committee
Senior Management

FORMS:

None

REFERENCES:

False Claims Act. Codified at 31 U.S.C. § 3729-33. See <http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t29t32+1980+1++%28%29%20%20AND%20%28USC%20w>

