

Olivencia, Mildred

From: Port Authority [webmaster.panynj@imagework.com]
Sent: Friday, April 29, 2016 6:57 PM
To: Van Duyne, Sheree; Ng, Danny; Torres-Rojas, Genara; Olivencia, Mildred; Shalewitz, William
Subject: FOI Request Submitted

A Freedom of Information request has been submitted.

Request date: 04/29/2016

Requested by: charlemagne Limage

Business: none

Address:

[REDACTED]

Contact:

Phone: [REDACTED]
Email [REDACTED]

Records seeking: copy of the contract between Port Authority and Dr. Edward Bennett Newyork Hospital, Queens.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

May 5, 2016

Mr. Charlemagne Limage


Re: Freedom of Information Reference No. 16894

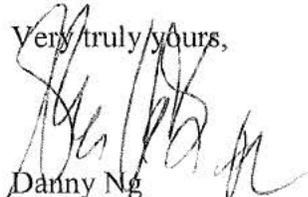
Dear Mr. Limage:

This is in response to your April 29, 2016 request, which has been processed under the Port Authority's Freedom of Information Code, copy enclosed, for copy of the contract between Port Authority and Dr. Edward Bennett Newyork Hospital, Queens.

Material responsive to your request can be found on the Port Authority's website at <http://corpinfo.panynj.gov/documents/16894-C/>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Danny Ng
FOI Administrator

Enclosure

*4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 3642 F: 212 435 7555*

MEDICAL DIRECTOR AND ON-LINE MEDICAL CONTROL FACILITY SERVICES

This Service Contract (the "Contract") is made as of the 15th day of NOVEMBER, 2009, between the New York Hospital Medical Center of Queens ("NYHQ" or the "Contractor"), with its principal place of business at 56-45 Main Street, Flushing New York 11355 and the Port Authority of New York and New Jersey, acting by and through its Port Authority Police Department Basic Life Support Ambulance Service at John F. Kennedy International Airport (JFK), (the "Ambulance Service"), with its principal place of business at Building 269, JFK Airport, Jamaica, New York 11430.

WHEREAS, the New York State Department of Health ("NYSDOH") requires the Ambulance Service to achieve the highest quality of patient care; and

WHEREAS, NYSDOH mandates that all Basic and Advanced Life Support ambulance services have an on-line and off-line physician medical director (the "Medical Director"); and

WHEREAS, NYSDOH also mandates that the Medical Director shall be:

- (i) a physician licensed to practice in New York State;
- (ii) familiar with the design and operation of EMS systems;
- (iii) experienced in pre-hospital emergency care and emergency management of ill or injured patients; and
- (iv) actively involved in/or knowledgeable about:
 - a. the training and/or continuing education of EMS personnel, under the Medical Director's direct supervision, at their respective levels of certification;
 - b. the medical audit, review, and critique of the performance of EMS personnel under his or her direct supervision;
 - c. the administrative and legislative environments affecting regional and/or state pre-hospital EMS organizations;
 - d. local multi-casualty plans;
 - e. dispatch and communications operations of pre-hospital emergency units; and
 - f. laws and regulations affecting local, regional, and state EMS operations; and

WHEREAS, NYHQ, as the On-Line Medical Control Facility shall be responsible for:

- a) Providing on-line medical control;
- b) Providing professional supervision for quality assurance activities to ensure that Regional Emergency Medical Advisory Committee ("REMAC") of New York City standards and protocols are maintained;
- c) Maintaining appropriate records of all on-line medical control contacts;
- d) Maintaining adequate communication equipment to ensure on-line medical control;
- e) Comply with REMAC protocols and policies pertaining to the provision of On-Line Medical Control; and

WHEREAS, Ambulance Service will be responsible for:

- a) Obtaining qualified Emergency Medical Technicians ("EMT's") who are certified by New York State;
- b) Ensure that EMT's operate under REMAC of New York City Prehospital Care Protocols at all times while on duty;
- c) Ensuring that ambulance equipment and supplies are maintained in accordance with Article 30 of the Public Health Law of the State of New York and the State EMS Code, Part 800;
- d) Providing adequate time for Continuing Medical Education for EMT's in compliance with New York State regulations;
- e) Maintaining adequate communications equipment to ensure access to on-line medical control;
- f) Have in place an agency quality improvement program as set forth in Article 30, Section 3006, and to participate in regional quality improvement activities, including but not limited to, submission of ACR/PCR copies for regional QI activities if requested.
- g) Ambulance Provider agrees to list NYHQ On Line Medical Control Facility as an 'occurrence' based additional insured on their general liability policy and provide proof of same. Insurance shall be in amounts of not less than \$2,000,000/\$4,000,000.
- h) Furthermore, Ambulance Provider agrees that the On Line Medical Control Services are ONLY for Basic Life Support ("BLS") treatment activities conducted in conjunction with Ambulance Provider. Ambulance Provider will be responsible and liable for ALL ambulance transports; and

WHEREAS, Ambulance Service and NYHQ have determined that it is in their mutual best interests to enter into this Agreement for the provision of Rachel Waldron, M.D., as Medical Director and NYHQ as On-Line Medical Control Facility Services as outlined in Section IV hereof.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

SECTION I
ENGAGEMENT; TERM OF AGREEMENT

Section 1.01. Ambulance Service Engages Provider. Ambulance Service hereby agrees to engage NYHQ and NYHQ consents so to be engaged, as its sole and exclusive provider of a Medical Director and On-Line Medical Control Facility Services described in Section IV (the "Services") herein during the Term (as such term is hereinafter defined). The parties further agree that no automobiles shall be used by NYHQ during the course of providing Medical Director and On-Line Medical Control Facility Services under this Contract.

Section 1.02. Ambulance Service Agrees to Pay Compensation as set out in Section III. In consideration for NYHQ's agreement to be engaged by Ambulance Service and in further consideration of the considerable time, expense and effort undertaken by NYHQ to provide the Services, Ambulance Service agrees to (a) pay NYHQ pursuant to the provisions of Section III, and (b) provide the minimum notices for termination as set forth in Section II.

Section 1.03. Initial Term and Extensions. The term of this agreement is six months commencing November 15, 2009 and expiring May 15, 2010, with a six month Option Period to

November 15, 2010, provided that either party may terminate this agreement with or without cause upon thirty (30) days' advance written notice to the other (the "Initial Term").

SECTION II
TERMINATION OF THE AGREEMENT

Section 2.01. *Termination of Agreement without Cause.* During the initial 120 days of the Initial Term, either party may, without cause, terminate this Agreement with 30-days advance written notice to the other party. Thereafter, this Agreement may be terminated by either party, without cause, upon 60-days advance written notice to the other party.

Section 2.02. *Termination of this Agreement with Material Cause.* Either party may terminate this Agreement with "material cause" if the other party is in "material default" under the terms and conditions of this Agreement and the default is not cured within seven (7) days of receipt of written notice specifying the material default. For purposes of this contract, a "material default" shall mean: (a) in the case of Ambulance Service, the failure to remit compensation to NYHQ as and when required under this Agreement; or, (b) in the case of NYHQ, the substantial failure of providing the Services as described pursuant to Section IV.

Section 2.03. *Method and Delivery of Written Notice.* All notices permitted or required under this Agreement shall be made by personal delivery or via U.S. certified mail, postage prepaid to the other party at its address set out on the signature page.

SECTION III
COMPENSATION FOR SERVICES

Section 3.01. *Compensation for Services.* Ambulance Service agrees to pay NYHQ a monthly fee of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) for Medical Director Services and a monthly fee of FIVE HUNDRED DOLLARS (\$500) for On-line Medical Control Facility Services, due on the first day of every month in consideration for the Services. The Medical Director Service fee will be increased to TWO THOUSAND DOLLARS (\$2,000) per month in the event the Ambulance Service changes over from Basic Life Support to Advance Life Support service.

SECTION IV
MEDICAL DIRECTOR SERVICES

Section 4.01. *Services.* The Medical Director shall implement and provide the following Services:

- (a) establish and monitor compliance with field performance guidelines for EMS personnel;
- (b) establish and monitor compliance with training guidelines which meet or exceed the minimum standards set forth in regulations from New York State Department of Health and Regional Emergency Medical Services Council of New York City;
- (c) direct an effective system audit and quality assurance program;
- (d) make formal recommendations on medically related aspects of operation of the Ambulance Service;
- (e) function as the primary liaison between the Ambulance Service and the local medical community, ascertaining and being responsive to the needs of each;

- (f) refer appropriate remedial or corrective measures for EMS personnel to PAPD JFK for proper action, which may include but are not limited to counseling, retraining, testing, probation, and/or termination;
- (g) suspend a certified EMS individual from medical care duties for due cause pending review and evaluation by PAPD JFK;
- (h) develop and implement a comprehensive mechanism for management of patient care incidents, including patient complaints, allegations of substandard care, and deviations from established protocols and patient care standards;
- (i) promptly respond to requests for information by the Ambulance Service relating to the subject matter items of this section as well as patient care issues;
- (j) provide timely review and consultation with regard to medical records;
- (k) oversee On Line Medical Control provided to the Ambulance Service;
- (l) assist with the transition from BLS to ALS level of service; and
- (m) maintain all medical licensure and certifications in good order.

SECTION V

APPOINTMENT OF MEDICAL DIRECTOR AND RELATIONSHIP OF THE PARTIES

Section 5.01. *Appointment of the Medical Director.* The parties intend that an independent contract and not an employer/employee relationship be created by this Agreement.

Section 5.02. *Relationship of the Parties.* It is understood that the Medical Director is in no way vicariously liable for the conduct of the Ambulance Service employees. It is also understood that the Ambulance Service is in no way vicariously liable for the conduct of the Medical Director. It is understood that the Ambulance Service may use other medical advisors from time to time. It is further understood that NYHQ and Medical Director are free to contract for similar services to be performed for other ambulance services while under contract with the Ambulance Service.

SECTION VI

INSURANCE AND LIABILITY

Section 6.01. *Insurance.* Medical Malpractice Insurance will be provided to the Medical Director through the New York Hospital Queens On Line Medical Control contract, as follows:

CIts# 3497

Insurance Procured by the Contractor

The Contractor shall take out, maintain, and pay the premiums on Professional Liability Insurance, with a contractual liability endorsement covering the obligations assumed by the Contractor under this Contract and, if vehicles are to be used to carry out the performance of this Contract, then the Contractor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering owned, non-owned, and rented vehicles in the following limits:

Automobile Liability Insurance - \$ 2 million combined single limit per accident for bodily injury and property damage liability.

Medical Malpractice Insurance - \$2 million single occurrence & \$4 million multiple occurrences.

In addition, the liability policy (ies) shall name The Port Authority of New York and New Jersey as additional insured. The liability policy (ies) and certificate of insurance must include cross-liability coverage providing severability of interests so that coverage will respond as if separate policies were in force for each insured.

The certificate of insurance and policy (ies) must contain the following wording for the above liability coverages:

"The insurer shall not raise any defense involving in any way the jurisdiction of the tribunal, immunity of the Authority, governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority without obtaining express advance written permission from the General Counsel of the Authority."

The Contractor shall also take out, maintain, and pay premiums on Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where work will take place.

Each policy above shall contain a provision that the policy may not be canceled, terminated, or modified without thirty (30) days' prior written notice to the Port Authority of New York and New Jersey, General Manager, Risk Management, at the address below.

The Port Authority may at any time during the term of this agreement change or modify the limits and coverages of insurance.

Within five (5) days after the award of this agreement or contract, the Contractor must submit an original certificate of insurance to the Port Authority of New York and New Jersey, General Manager, Risk Management, 225 Park Avenue South, 12th Floor, New York City, NY 10003 (attention Agreement Certificate Review) and a copy of the certificate to the Facility Contract Administrator, at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy(ies), stating the agreement number. Upon request, the Contractor shall furnish to the General Manager, a certified copy of each policy, including the premiums.

The General Manager, Risk Management must approve the certificate(s) of insurance, before any work can begin. To expedite the review of the certificate(s) of insurance, they may be faxed to the General Manager, Risk Management at (212) 435-5862. However, original certificates of insurance must be submitted in accordance with the aforementioned paragraph.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, if the Manager shall so direct, the Contractor shall suspend performance of the contract at the premises. If the contract is so suspended, no extension of time shall be due on account thereof. If the contract is not suspended (whether or not because of omission of the Manager to order suspension), then the Authority may, at its option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be payable by the Contractor to the Authority.

Cits # 3497

Section 6.02. *Liability.* Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Medical Director with any liability, or held liable to it under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach thereof.

SECTION VII MISCELLANEOUS

Section 7.01. *Amendment or Modification.* This Agreement may be amended or modified from time to time only by a written instrument signed by the parties hereto.

Section 7.02. *Section Headings.* The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

Section 7.03. *Severability.* Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement and the illegal or invalid provision shall be enforced to the maximum extent possible to still be legal and valid.

Section 7.04. *Confidentiality.* The terms and conditions of this Agreement are confidential and neither party shall release any of the terms hereof to any third party without the prior written consent of the other party, except to the extent necessary to comply with law, including public information requests, the valid order of a court of competent jurisdiction, or the valid order or requirement of a governmental agency.

Section 7.05. *Record Retention.* As an independent contractor of NYHQ, Ambulance Provider shall, in accordance with 18 NYCRR 504.3(a), keep for a period of six (6) years from the date the care, services or supplies were furnished pursuant to the Agreement, all records necessary to disclose the nature and extent of the services furnished and all information regarding claims for payment submitted by, or on behalf of, the Subscriber and to furnish such records and information, upon request, to the New York State Department of Social Services, the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health.

Ambulance Provider agrees to make available upon written request to the Secretary of Health & Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and any documents and records necessary to verify the costs of services rendered under this Agreement until the expiration of four (4) years after the services are last furnished under this Agreement.

Section 7.06. *Compliance.* Both parties represent and warrant that they maintain an internal compliance program to ensure that their activities comply with all governmental and other regulations and provisions. As part of this compliance program, each party conducts annual screenings of the OIG's list of excluded individuals and entities to determine the status of medical staff, officers, directors, employees and contractors.

Each party represents and warrants that neither it nor its medical staff, officers, directors, employees or contractors are or have been excluded from participation in a federal or state health care program:

As a participant in the Medicaid Program, NYHQ is obligated to comply with the terms and requirements of the Deficit Reduction Act of 2005 (DRA). In accordance with the DRA, NYHQ has adopted written policies for its employees that provide detailed information about the Federal and New York State False Claims Acts, the Program Fraud Civil Remedies Act, other relevant state laws, the whistleblower protections under such laws and NYHQ policies for detecting and preventing waste, fraud and abuse.

The DRA requires that NYHQ provide this information to all contractors and agents for their adoption. Accordingly, Ambulance Provider acknowledges receipt of NYHQ's pertinent policy (see Exhibit) and hereby agrees to and adopts this policy.

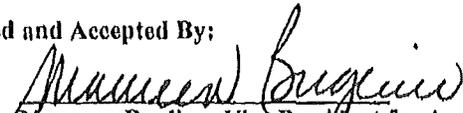
Section 7.07. Liability. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by NYHQ with any liability, or held liable to it under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach thereof.

Section 7.08. Governing Law. This Agreement has been executed in, and shall be governed by and interpreted in accordance with, the laws of the State of New York. Any controversy or claim arising from or relating to the Agreement shall be brought in the courts of the State of New York.

SECTION VIII EXECUTION

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date the last party to this Agreement executes it, being the Effective Date:

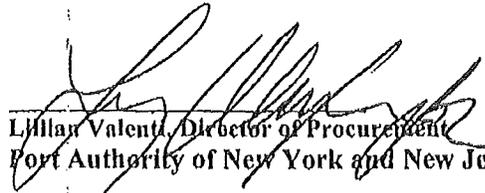
Agreed and Accepted By:


Maureen Buglino, Vice President for Ambulatory Services
New York Hospital Medical Center of Queens

REVIEWED BY NYHQ LEGAL

BY: 

DATE: 11/10/07


Lillian Valenti, Director of Procurement
Port Authority of New York and New Jersey



THE NEW YORK HOSPITAL
MEDICAL CENTER OF QUEENS

DEPARTMENT / UNIT: COMPLIANCE OFFICE

POLICY/PROCEDURE

Effective Date: 7/1/07	TITLE: DEFICIT REDUCTION ACT	Number: #1640
Original Date: 7/1/07		Page 1 of 9
Reviewed/Revised: 7/1/2007 Next Review Date: 1/2009		This policy/procedure supersedes:

POLICY PURSUANT TO
THE FEDERAL DEFICIT REDUCTION ACT OF 2005:
Detection and Prevention of Fraud, Waste, and Abuse
and Applicable Federal and State Laws¹

SUMMARY

New York Hospital Queens (NYHQ) is committed to complying with the requirements of Section 6032 of the Federal Deficit Reduction Act of 2005 and to preventing and detecting any fraud, waste, or abuse in its organization. To this end, NYHQ maintains an active compliance program and strives to educate our work force on fraud and abuse laws, including the importance of submitting accurate claims and reports to the Federal and State governments. Moreover, NYHQ commits itself to investigate any suspicions of fraud, waste, or abuse swiftly and thoroughly and requires all employees to assist in such investigations. By working together, we can uphold NYHQ's belief in organizational responsibility and ethical behavior, and we can ensure that our facility is focused on patient care above all other concerns.

In particular, NYHQ prohibits the knowing submission of a false claim for payment from a Federally or State funded health care program. Such a submission is a violation of Federal and State law and can result in significant administrative and civil penalties under the Federal False Claims Act, a Federal statute that allows private persons to help reduce fraud against the United States government. Please see more information about the Federal False Claims Acts below.

In addition, in New York State the submission of a false claim can result in civil and criminal penalties under the New York False Claims Act and portions of the New York

¹ This draft does not constitute legal advice by GNYHA, nor does it establish any mandatory policies or procedures or standard for compliance. It is a suggested format only.

State Social Services Law and Penal Law, among other State statutes. Please see more information about these New York State laws below.

NEW YORK HOSPITAL, QUEENS POLICIES AND PROCEDURES

To assist NYHQ in meeting its legal and ethical obligations, any employee who reasonably suspects or is aware of the preparation or submission of a false claim or report or any other potential fraud, waste, or abuse, is required to take the following steps:

1. Report such information to his/her supervisor or NYHQ Corporate Compliance Officer immediately. Employees may report such concerns in person or through the organization's compliance hotline at 718-670-2492.
 - o Any employee of NYHQ who reports such information will have the right and opportunity to do so anonymously.
 - o In addition, the employee will be protected against retaliation for coming forward with such information both under NYHQ's internal compliance policies and procedures and Federal and State law.
 - o However, NYHQ retains the right to take appropriate action against an employee who has participated in a violation of Federal or State law or hospital policy.
2. If an employee believes that NYHQ is not responding to his or her report within a reasonable period of time, the employee should bring these concerns about NYHQ perceived inaction to Adam K. Weinstein, Corporate Compliance Officer and Vice President for Regulatory Affairs.
3. Employees should remember that failure to report and disclose or assist in an investigation of fraud and abuse is a breach of the employee's obligations to NYHQ and may result in disciplinary action.
4. After an employee report has been filed, NYHQ will take actions that include the following:
 - Log the concern or complaint.
 - Assign case number, e.g., 2007-01
 - Investigate concern, recommendation or accusation with supervisors for that area.
 - Report back to senior leadership and complainant.

In addition to steps taken in response to employee reports, NYHQ commits to the following regular actions to identify and prevent fraud, waste, and abuse in our facility:

- Regular system audits through committee, i.e., Audit and Corporate Compliance Committee.

A violation of the Federal False Claims Act results in a civil penalty between \$5,500 and \$11,000 for each false claim submitted, plus up to three times the amount of the damages sustained by the Government because of the violation. In addition, the United States Department of Health and Human Services (HHS) Office of the Inspector General (OIG) may exclude the violator from participation in Federal health care programs.

The False Claims Act allows a private person to file a *qui tam* lawsuit on behalf of the Federal government. This person, also called a relator or whistleblower, must file his or her lawsuit under seal in a federal district court. The government may decide to intervene with the lawsuit, in which case the United States Department of Justice will direct the prosecution. If the government does not decide to intervene, the relator may still continue the lawsuit independently.

If a *qui tam* lawsuit is successful, the relator may receive between 10 to 30% of the recovery, depending on the level of the government's participation and other factors, as well as reasonable attorney's fees and costs. In addition, there can be no retaliation against the relator for filing or participating in the lawsuit in good faith. At the same time, however, any person who brings a clearly frivolous case can be held liable for the defendant's attorney's fees and costs.

Federal Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act of 1986, 31 USC §§3801, *et seq*, is similar to the False Claims Act, establishing an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent to certain Federal agencies, including HHS, and again, includes Medicaid and Medicare claims.

Similar to the False Claims Act, a person who "knows or has reason to know" is defined as one who:

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

Once again, there is no necessary proof of specific intent to defraud the government.

A violation of the Program Fraud Civil Remedies Act can result in a civil monetary penalty of up to \$5,500 per false claim and an assessment of twice the amount of the false claim. The penalty can be imposed through an administrative hearing after investigation by HHS and approval by the United States Attorney General.

New York State Laws²

The New York State False Claims Act (NY SFCA, State Finance Law §§187-194) closely tracks the Federal False Claims Act. It provides, in pertinent part, that:

² Descriptions of the New York State laws are based on materials created by the New York State Office of the Medicaid Inspector General, July 2007: (<<http://www.omig.state.ny.us/data/content/vlow/81165/>>)

Any person who

- a. knowingly presents, or causes to be presented, to any employee, officer, or agent of the State or a local government 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 or a local government;
- c. conspires to defraud the State or a local government by getting a false or fraudulent claim allowed or paid; ...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 or a local government...

is liable (1) to the State of New York for a civil penalty of not less than six thousand dollars and not more than twelve thousand dollars, plus three times the amount of damages that the State sustains because of the act of that person; and (2) to any local government for three times the amount of damages sustained by such local government because of the act of that person.

For purposes of this section, the terms "knowing" and "knowingly" mean that with respect to a claim, or information relating to a claim, a person

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

Proof of specific intent to defraud is not required, but this law does not cover acts occurring by mistake or due to mere negligence.

Under the NY SFCA, a "claim" means any request or demand for money or property that is made to any employee, officer, or agent of the State or a local government. This includes requests or demands submitted to a contractor of the government and includes Medicaid claims, among other items.

The NY SFCA provides protection to an employee of any private or public employer who is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by his or her employer because of lawful acts taken by the employee in furtherance of an action under the NY SFCA. Remedies for such discrimination include reinstatement, two times back pay, and compensation for any special damages sustained as a result of the discrimination.

Under New York Social Services Law §145-b, it is unlawful to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. For a violation of this law, the local Social services district or the State has a right to recover civil damages equal to three times the amount by which

any figure is falsely overstated. In the case of non-monetary false statements, the local Social Service district or State may recover three times the damages (or \$5,000, whichever is greater) sustained by the government due to the violation.

The law also empowers the New York State Department of Health to impose a monetary penalty on any person who, among other actions, causes Medicaid payments to be made if the person knew or had reason to know that:

- the payment involved care, services, or supplies that were medically improper, unnecessary, or excessive;
- the care, services or supplies were not provided as claimed;
- the person who ordered or prescribed the improper, unnecessary, or excessive care, services, or supplies was suspended or excluded from the Medicaid program at the time the care, services, or supplies were furnished; or
- the services or supplies were not in fact provided.

The monetary penalty shall not exceed \$2,000 for each item or service in question, unless a penalty under the section has been imposed within the previous five years, in which case the penalty shall not exceed \$7500 per item or service.

Social Services Law §145-c: Sanctions. If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's and the person's family's needs are not taken into account for 6 months if it is a first offense, 12 months if a second (or once if benefits received are over \$3,900) and five years for 4 or more offenses.

In addition, under Social Services Law §145, any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

Under New York Social Services Law §366-b (2), any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which s/he is legally entitled for furnishing services or merchandise shall be guilty of a class A misdemeanor. If such an act constitutes a violation of a provision of the penal law of the state of New York, the person committing the act shall be punished in accordance with the penalties fixed by such law.

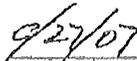
New York State Penal Law Article 155, Larceny applies to a person who, with intent to deprive another of property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud cases.

- a. Fourth degree grand larceny involves property valued over \$1,000. It is a Class B felony.

More information on any of these or related statutes through the Compliance Office or General Counsel's Office. Please call Adam K. Weinstein, Vice President of Regulatory Affairs at 718-670-2101 if you have any questions.



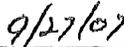
Stephen S. Mills
President and CEO



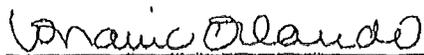
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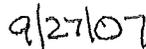
William P. Wissemann, Esq.
Senior Vice President and General Counsel



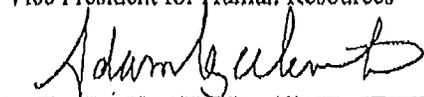
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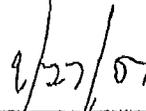
Lorraine Orlando
Vice President for Human Resources



Date:



Adam K. Weinstein
Vice President, Regulatory Affairs and
Corporate Compliance Officer



Date: