COMPLIANCE TRAINING

Vendors & Contractors

MILL NECK SERVICES
for the Deaf
a division of Mill Neck Family of Organizations

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WHAT DOES COMPLIANCE MEAN TO YOU?

Doing the RIGHT THING
Even when NO ONE is looking

- ✔ This applies to all Employees, Contractors, the Board, Management, Vendors, & Volunteers.
- ✔ Compliance requires everyone to be involved.
- ✔ It is a team effort!

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FOR AN EFFECTIVE COMPLIANCE PROGRAM

- Contractors/ Vendors must be able to recognize unlawful and unethical conduct.
- Waste, fraud, abuse and kickbacks are types of improper conduct.
- Compliance Programs require you to know who to report the potential violation to and where to find answers to questions about potentially problematic conduct.
- You cannot be punished for reporting a potential compliance violation.

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7 ELEMENTS OF A COMPLIANCE PLAN

1. Written Policies, Procedures, and Standards of Conduct
2. Compliance Officer and Compliance Committee
3. Compliance Program Training and Education
4. Lines of Communication
5. Disciplinary Standards
6. Auditing and Monitoring
7. Responding to Compliance Issues

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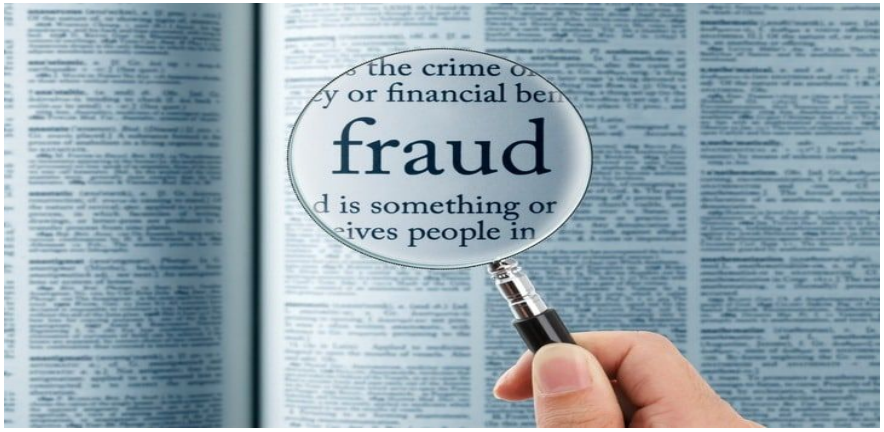
NYS FALSE CLAIMS ACT

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false.



- An example may be a Doctor submitting a bill to Medicare/Medicaid for medical services he/she knows he/she has not provided.

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SOME EXAMPLES OF FALSE CLAIMS

- Bill for services that were not provided
- Provide & bill for unnecessary services
- Bill for a time period longer than the service was provided
- Complete documentation with little or no factual basis
- Fail to document the actual time spent on a service
- Keep poor records
- Unbundling and upcoding

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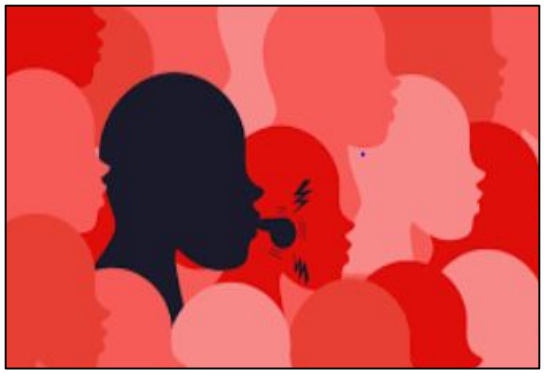
THE WHISTLEBLOWER ACT



A whistleblower is someone who calls attention to something that is wrong. The False Claims Act encourages people to expose fraudulent activity or poor quality of care to the federal government. It does this by allowing a person to sue a person or an organization that has violated the false claims act on behalf of the government. In fact, you can be financially rewarded for identifying fraudulent activities.

The Whistleblower Protection Act became federal law in the United States in 1989.

PROTECTION

- An employer cannot **retaliate** against you for exercising your rights under the Department of Labor's whistleblower protection laws.
- **Retaliation** includes such actions as firing or laying off, demoting, denying overtime or promotion, or reducing pay or hours.

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EXCLUSION CHECKS

In accordance with the requirements of 18 NYCRR § 515.5 and 18 NYCRR § 521-1.4 (g)(3), Mill Neck Services (MNS), will confirm the identity and determine the exclusion status of *affected individuals.

Specifically, in determining the exclusion status of a person, MNS will review, at a minimum, the following databases at least every thirty (30) days: (a) the OMIG Exclusion List; (b) the OIG's List of Excluded Individuals and Entities; and (c) the General Services Administration's System for Awards Management (SAM).

The results of these checks will be promptly shared with the compliance officer and appropriate compliance personnel. Further, we require our contractors to perform these checks as well as items or services under Medicare and Medicaid.

**Affected individuals* refers to all persons who are affected by the agency's "risk areas," including our employees, the chief executive and other senior administrators, managers, contractors, vendors, agents, subcontractors and independent contractors.

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DEFICIT REDUCTION ACT

The Deficit Reduction Act of 2005 included provisions to eliminate fraud, waste, and abuse in Medicaid and an amendment to the Social Security Act requiring all organizations receiving over 5 million in annual Medicaid payments to supply detailed information to employees (Social Security Act 2012). The written policies must include information regarding:

1. The False Claim Act
2. The administrative solutions to false claims
3. State Laws pertaining to civil or criminal penalties for false claims
4. Whistleblower protection under these federal and state laws
5. The roles of these laws in preventing and detecting fraud, waste and abuse

The Deficit Reduction Act also offers financial incentives for states to enact their own false claims act that mirror the federal act.

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KICKBACKS

An agency like Mill Neck Services should examine its relationships with vendors, business associates and referral sources.

Kickbacks can include:

- **Financial incentives** Cash or other bonuses in exchange for a referral.
- **Forming arrangements** That allows receiving non-covered items below market values from the vendors.
- **Office space** The exchange of a rental rate for office or clinic space that is too low compared to market value or free rental space.
- **Gifts** The gifting of expensive accommodations/vacations, meals, and tickets to sporting or entertainment events.

*Be careful with gifts, which may be considered as a kickback, especially if they are designed to influence you or your agency.

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HIPAA & eHIPAA

- Health Insurance Portability and Accountability Act (HIPAA) is a federal law imposed on all the providers of healthcare and their business associates which protects the privacy & security of Protected Health Information (PHI)

- 'Under HIPAA, PHI may not be given to anyone without the individual's/representative's authorization, except as it is necessary for the agency's normal treatment of the individual receiving services, processes leading to the payment for services to the individual, operations, such as quality assurance, compliance etc.

- Disclosure of PHI requires notification to the agency's Privacy Officer utilizing the agency forms and expressed approval from Privacy Officer.

- HIPAA Security Rules (e-HIPAA) defines the standards that require covered entities to implement basic safeguards to protect electronic Protected Health Information (e-PHI).

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- e-PHI is computer based health information that is used, created, stored, received or transmitted by Mill Neck Services using any kind of electronic information resources

- PHI is not to be discussed in public such as hallways or elevators, and should never be left unattended, such as in the fax machine or copier or a file left unattended, computers left unprotected such as failing to log out or using a password.

- Reporting of a potential breach: Any workforces member who knows, believes, or suspects that a privacy or security breach of PHI has occurred must immediately follow up with their supervisor, who will in turn report the suspected breach to the Privacy Officer or Security Officer depending on the type of breach.

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Stop Hacks and Improve Electronic Date Security Act ("SHIELD Act")

"The SHIELD Act requires employers in possession of **New York residents' private information** to "develop, implement, and maintain reasonable safeguards to protect the security, confidentiality and integrity of the private information."

The SHIELD Act, **signed into law on July 25, 2019**, by Governor Andrew Cuomo, amends New York's 2005 Information Security Breach and Notification Act.

- **Broadening the Definition of "Private Information."**
  Include biometric information and username/email address in combination with a password or security questions and answers. It also includes an account number or credit/debit card number, even without a security code, access code, or password, if the account could be accessed without such information.

- **Expanding the Definition of "Breach."**
  Unauthorized "access" of computerized data that compromises the security, confidentiality, or integrity of private information, and it provides sample indicators of access. Previously, a breach was defined only as unauthorized acquisition of computerized data.

- **Expanding the Territorial Scope.**
  Any person or business that owns or licenses private information of a New York resident. Previously, the law was limited to those that conducted business in New York.

- **Imposing Data Security Requirements.**
  Requires companies to adopt reasonable safeguards to protect the security, confidentiality, and integrity of private information. A company should implement a data security program that includes risk assessments, employee training, vendor contracts, and timely data disposal.

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To report a compliance situation or have any questions, you can call the compliance hotline at ***67-516-580-1299** or email **complianceqa@millneck.org**