ROPER ST. FRANCIS

Hospitals **System-Wide**

Division **Corporate Compliance**

Policy & Procedure

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Administrative Approval	Greg Edwards, Esq.
Administrative Title	Vice President/General Counsel
Reviewer (Title)	Corporate Compliance Officer

SUBJECT: **Preventing, detecting, and reporting fraud, waste, and abuse of applicable federal and state laws**

APPLICABILITY STATEMENT:
RSFH System: This policy applies to Roper Hospital, St. Francis Hospital, and Mount Pleasant Hospital, any departments owned or operated by these Hospitals, as well as Roper St. Francis Physician Partners, Roper St Francis Worksite Partners and Roper St. Francis Medshare.

BACKGROUND/PURPOSE:

This policy sets forth information concerning the existing policies and procedures of Roper Saint Francis Healthcare ("RSFH"), including avenues for reporting concerns internally, and an overview of the Federal Civil False Claims Act ("FCA"), other federal legislation, and applicable state laws.

The Federal Government and the State of South Carolina have enacted criminal and civil laws pertaining to the submission of false or fraudulent claims for payment or approval to the federal and state governments health plans, and to private payors. These false claims laws, which provide for criminal, civil, and administrative penalties, provide governmental authorities with broad authority to investigate and prosecute potentially fraudulent activities, and also provide anti-retaliation provisions for individuals who make good faith reports of waste, fraud, and abuse

DEFINITIONS:

Fraud: The intentional deception or misrepresentation that an individual knows to be false (or does not believe to be true) and makes, knowing that the deception could result in an unauthorized benefit to himself or another person.

Abuse: Incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or are medically unnecessary.

Knowingly**:** A person 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. No proof of specific intent to defraud is required.

Claim: Any request or demand for money or property if the United States Government provides any portion of the money requested or demanded.

Qui Tam Lawsuit: A civil action brought forth by a private person in the name of the government for a violation of the FCA. The plaintiff may receive a portion of the proceeds of the judgment or settlement. In either case, the plaintiff may also receive an amount for reasonable expenses plus reasonable attorneys' fees and costs. If the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the plaintiff may have to pay the defendant its fees and costs.

Whistleblower Protection**:** An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance

of an action under the FCA may bring an action seeking reinstatement, of back pay, and other enumerated costs, damages, and fees.

Employee: Any officer or employee of RSFH or any of its affiliates, including part-time or PRN employees.

Contractor: Any contractor, agent, subcontractor, or other person or entity which or who, on behalf of RSFH of any of its affiliates, furnishes or authorizes the furnishing of health care items or services, performs billing or coding functions or is otherwise involved in the monitoring or health services furnished by RSFH or any of its affiliates.

POLICY:

A. RSFH is committed to complying with all applicable federal and state laws and regulations, including but not limited to the following:

I. The Federal False Claims Act which outlines penalties for individuals or entities who knowingly present a false claim, or cause another individual or entity to submit a false claim, for payment or approval by the United States Government. Administrative remedies for violation of the False Claims Act, as defined by 31 USC Chapter 38, may include civil penalties not less than $5,500 and not more than $11,000 per claim, in addition to three times the amount of damages.

II. The Program Fraud Civil Remedies Act of 1986 which establishes 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 due to an assertion or omission to certain federal agencies. The Act allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of $5,500 per claim and an assessment, in lieu of damages of not more than twice the amount of the original claim.

III. The South Carolina Presenting False Claims for Payment Statute which provides that a person who knowingly causes, assists with, solicits, or conspires in the presentation of a false claim to an insurer, health maintenance organization, or to any person (including the State of South Carolina) providing benefits for health care in South Carolina is, depending upon the amount of the claim, guilty of anywhere from a misdemeanor for which the person can be fined and imprisoned to a felony whereby the person is subject to imprisonment for ten years and/or a fine of $5,000.

IV. The South Carolina Medicaid False Claims Statute provides criminal, civil, and administrative penalties and sanctions related to health care providers who knowingly and willfully make a false statement in an application or request for a benefit, reimbursement or in a report or certificate submitted to the Medicaid program. The Statute also provides that it is unlawful for a provider to knowingly and willfully conceal or fail to disclose any material fact which affects the provider's initial or continued entitlement to reimbursement or the amount of payment under the Medicaid program. Each false claim or concealed fact constitutes a separate offense. A person who violates this statute is guilty of a misdemeanor and subject to imprisonment for up to 3 years and a fine of not more that $1,000.

V. The South Carolina Medicaid False Application Statute provides criminal penalties for any applicant, recipient or other person acting on their behalf to knowingly and willfully (1) make or cause to be made a false statement or representation of material fact on a Medicaid application for entitlements, or (2) conceal or fail to disclose any material fact affecting initial or continuing entitlement to receive assistance, goods or services under the state's Medicaid program. A person who violates the provisions of this statute is guilty of medical assistance recipient fraud, a misdemeanor, and upon conviction must be imprisoned not more than 3 years or fined not more than $1,000, or both.

VI. The South Carolina Insurance Fraud and Reporting Immunity Act provides for criminal and civil penalties related to insurance fraud and established an Insurance Fraud Division in the office of the Attorney General to prosecute violations. Any person or insurer who makes a "false statement or misrepresentation" is, depending upon the amount received and number of offenses, guilty of anywhere from a misdemeanor, 30 days imprisonment or fine to a felony, 10 years imprisonment, and a $50,000 dollar fine. In all cases the person must make full restitution to the victim of the fraud. In addition to criminal liability, a person who violates the statute faces potential civil fines up to $15,000 and may be ordered to pay court costs and attorneys' fees to the director of the

Insurance Fraud Division. Any person, insurer, or agency (1) having reason to believe that another has made a false statement or misrepresentation, or (2) has knowledge of a suspected false statement or misrepresentation shall notify the Insurance Fraud Division. If the reporter acts without malice or in good faith, the reporter is immune from any liability arising out of the report.

VII. The South Carolina Computer Crime Act provides criminal penalties related to causing direct or indirect access to a computer for, among other things, the purpose of devising or executing a fraud scheme or obtaining money, property or services by means of false or fraudulent pretenses, representations or promises. Any person convicted of computer crime is, depending upon the amount of the victim's loss and number of offenses, guilty of anywhere from a misdemeanor, 30 days imprisonment or fine of not more than $200 to a felony, 25 years imprisonment, and/or a $50,000 dollar fine.

VIII. The State Administrative Sanctions Against Medicaid Providers provides that the Administrator of Medicaid may invoke administrative sanctions against a Medicaid provider who has been determined to abuse the Medicaid Program. Grounds for sanctioning providers include presenting a false claim for services, submitting false information to obtain greater compensation than that to which the provider is entitled, over utilization, conviction for a criminal offense related to Medicaid or Medicare, failure to meet standards required by State or Federal law for participation in Medicaid, and other acts. Sanctions may include educational intervention, peer review, recoupment of overpayments, suspension, termination, postpayment or prepayment review of claims, and referral to licensing and certifying boards or agencies. The factors considered in determining sanctions include, but are not be limited to: the seriousness of the offense; the extent of violation; history of prior violation(s); prior imposition of sanction; and the provider's failure to obey program rules and policies as specified in the appropriate Provider Manual or other official notices.

B. Employees who report a false claims violation to the United States Government or the South Carolina state government are entitled to whistleblower protections under the federal and state acts from retribution or retaliation by RSRH.

PROCEDURE:

1. The following policies and procedures have been established by the RSFH Corporate Compliance Program to prevent, detect, and identify suspected fraud, waste and abuse. These policies are accessible by all employees via Careline, the RSFH intranet website or by contacting the RSFH Corporate Compliance Department.

    a. 7030-00-01 Billing and Coding
    b. 7030-00-02 Compliance Reporting and Resolution (Non-Retaliation/Non-Retribution)
    c. 7030-00-04 Compliance Education and Training
    d. 7030-00-05 Employee Exit Interviews
    e. 7030-00-07 Equipment and Space Arrangements with Physicians
    f. 7030-00-08 Hazardous Waste
    g. 7030-00-09 Legal Department Correspondence
    h. 7030-00-10 Records Management
    i. 7030-00-11 Search Warrant
    j. 7030-00-12 Voluntary Disclosure to the Government of Violations of Law
    k. 7030-00-13 Compliance Monitoring and Review
    l. 7030-00-14 Screening Sanctions
    m. 7030-00-15 Employee Application Attestation
    n. 7030-00-16 Controlled Substances
    o. 7030-00-17 Responsibility Structure
    p. 7030-00-22 Compliance Office

2. RSFH contractors shall be made available a copy of this policy and agree to adopt RSFH's **Code of Conduct and** other applicable policies.

3. Employees who have knowledge of suspected violations of the RSFH Corporate Compliance Program must report such suspected violations via one or more of the following:

    a. Chain of Command
    b. Corporate Compliance Department
    c. RSFH Compliance HelpLine

Employees who report suspected compliance violations are protected by RSFH Policy 7030-00-02, Compliance Reporting and Resolution (Non-Retribution/Non-Retaliation).