



## AGENCY AGREEMENT FOR HEALTH-RELATED PROFESSIONS

This Agreement is entered into July 26, 2013 between the Pima County Community College District, hereinafter referred to as the COLLEGE, and Tucson Medical Center, hereinafter referred to as the HOSPITAL.

WHEREAS, the COLLEGE wishes to provide a quality educational experience for its HEALTH-RELATED PROFESSIONS students by affiliating with the HOSPITAL, primarily to provide students with didactic exposure to patient management experience, and

WHEREAS, the HOSPITAL wishes to co-operate in providing this education experience for HEALTH-RELATED PROFESSIONS students of the COLLEGE,

NOW, THEREFORE BE IT RESOLVED:

1. The COLLEGE will assume full responsibility for the planning of the educational program, including programming, administration, matriculation, promotion, licensure of faculty, and evaluation.
2. The COLLEGE will keep all records and reports on students' practical experiences.
3. The COLLEGE will notify the HOSPITAL, with adequate advance notice, of the available students' assignments to HOSPITAL areas, including dates and numbers of students. The students' assignments including dates and numbers will be subject to approval by the HOSPITAL
4. The COLLEGE will ensure students and faculty comply with all workplace policies of the HOSPITAL, which are made known to students and faculty by the HOSPITAL, including without limitation, safety and confidentiality policies with reference to HIPAA for the protection of the patients, employees, and visitors of the HOSPITAL. The COLLEGE will provide appropriate educational supervision of students assigned to the HOSPITAL, and will assess students' development and capabilities within the practical experience as appropriate to the area of experience.

5. Each party agrees to indemnify and hold harmless the other party, its appointed boards and commissions, officials, officers, employees, students, agents, and subagents, individually and collectively, from all fines, damages, claims, demands, suits or actions of any kind and nature arising by reason of its own negligent acts or omissions in the performance of this agreement.

6. The parties to this Agreement agree that they will not discriminate against any student due to race, color, religion, sex, or national origin, and in this regard they will comply with all applicable federal and state employment laws, rules and regulations, including the Americans with Disabilities Act. COLLEGE and HOSPITAL policies related to assignment, placement, and work practices of students shall be consistent with protective provisions of federal Occupational Safety and Health Administration (OSHA) standards. COLLEGE policies on student rights apply.

7. Students, faculty, and COLLEGE staff participating in this program shall not be considered as employees of the HOSPITAL, and agents or employees of the HOSPITAL shall not be considered employees of the COLLEGE. Accordingly, employees of one party shall not be entitled to employee benefits normally provided to bona fide employees of the other party. Nothing in this Agreement or its performance except as provided in A.R.S. 23-1022.D shall be construed to result in any person being the officer, agent, employee, or servant of either party when such person, absent this Agreement and the performance thereof, would not in law have such status. Nothing in the execution of this Agreement or its performance shall be construed to establish a joint venture by the parties hereto.

8. Each party shall retain complete control and jurisdiction over such programs of its own that are outside of this Agreement and nothing in the execution of this Agreement shall be construed to establish a joint venture of the parties hereto.

9. The Agreement shall be subject to and interpreted under the laws of the State of Arizona. Any controversy or claim arising out of or relating to this Agreement, its enforcement or interpretation, or because of an alleged breach, default, or misrepresentation in connection with any of its provisions, shall be submitted to arbitration, to be held in Pima County, Arizona, in accordance with the Uniform Arbitration Act, A.R.S. § 12-1501 et seq. The arbitrator shall be selected by mutual agreement of the parties; if none, then by striking from a list provided by an organization such as the American Arbitration Association. In the event either party institutes arbitration under this Agreement, the party prevailing in any such arbitration shall be entitled, in addition to all other relief, to reasonable attorneys' fees relating to such arbitration. The non-prevailing party shall be responsible for all costs of the arbitration, including but not limited to, the arbitration fees, court reporter fees, etc. The decision of the arbitrator shall be final and binding upon the parties.

10. In accordance with A.R.S. § 35-391 and 35-397, each of the parties to this Agreement hereby certifies that it (1) is not in violation of the Export Administration Act and (2) does not have scrutinized business operations in Sudan or Iran.

11. By entering into this Agreement, HOSPITAL warrants compliance with A.R.S. § 41-4401, A.R.S. § 23-214, the Federal Immigration and Nationality Act (FINA), and all other federal

immigration laws and regulations. The COLLEGE may request verification of compliance with this requirement from the HOSPITAL or any subcontractor performing work under this Agreement. If requested, the HOSPITAL shall allow COLLEGE to review during regular business hours and on such mutually agreed dates HOSPITAL'S business records to the extent necessary for the COLLEGE to confirm compliance with the provision of this paragraph. Violation of the terms of this paragraph shall be deemed a material breach of the Agreement and shall allow the COLLEGE to terminate this Agreement and/or pursue other available legal remedies.

12. The HOSPITAL shall make available, at no charge to the COLLEGE, the workplace for the students' practical experience.

13. The educational experience provided by the HOSPITAL shall be of such quality as outlined in the mutually agreed upon performance objectives as to provide the students with sound practical experience and to enforce professional policies.

14. The term of this Agreement shall be from the 1st day of October, 2013, and shall expire on the 30th day of September, 2018. Any changes to this Agreement must be made by Addendum and executed by both parties. This Agreement, or any renewal and extension thereof, may be terminated by either party with or without cause upon written notice to the other ninety (90) days in advance of the next training. Such termination will not affect students assigned to HOSPITAL for the rotation in which notice is given. The agreement may also be terminated with less than ninety (90) days prior written notice if required funding for the program is not available or is not appropriated by the Governing Board of the COLLEGE, or if the HOSPITAL operates on an administrative basis substantially different from that presently used which prevents HOSPITAL from complying with its obligations hereunder.

15. Any officer of HOSPITAL may request that the Educational Institution suspend any Student from further participation under this Agreement at any time for infractions of applicable laws or regulations or HOSPITAL rules or policies. HOSPITAL will provide written notice of the suspension, the reason for suspension and any charges to the Educational Institution.

16. HOSPITAL reserves the right to bar any Student from participation under this Agreement for failure to fulfill the terms of the Agreement. HOSPITAL will provide prompt written notice to the Educational Institution of any action taken with respect to this provision, but such actions may be taken at the sole discretion of HOSPITAL.

17. Any services rendered by students enrolled in the programs covered by this Agreement and who are not formally engaged as volunteers by the HOSPITAL and who are not employed by the HOSPITAL will be considered to be educational in nature. The HOSPITAL will maintain administrative and professional supervision of the students insofar as their presence affects the operation of the facility and/or the direct and indirect care of patients. The HOSPITAL will retain full responsibility for the care of patients.

18. Other conditions:

- a. The COLLEGE and the HOSPITAL shall each maintain professional liability insurance or self-insure in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) aggregate. The COLLEGE shall

obtain "tail coverage" if subsequent to the execution of this agreement COLLEGE obtains professional liability insurance on a "claims-made" basis. The COLLEGE and the HOSPITAL shall each also maintain comprehensive general liability insurance (CGL) in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate. Upon request, the parties agree to furnish to the other appropriate certificates of insurance. Both parties agree that such insurance may not be revoked, reduced, or changed in a material way without at least thirty (30) days advance written notice to the other party.

- b. The HOSPITAL may require and make provisions for faculty and students' orientation to the HOSPITAL, which may include specific protocols, policies, and procedures, prior to faculty and students beginning the assignment within the HOSPITAL. If HOSPITAL does not provide an orientation, then the HOSPITAL will make available its written protocols, policies, and procedures to the COLLEGE prior to the beginning of the placements.
- c. The COLLEGE will ensure that faculty and students participate in all quality control initiatives.
- d. Sentinel Event – In accordance with the Federal Drug Administration (FDA) requirements under SMDA (Safe Medical Devices Act) which requires that medical device incidents be reported to the FDA or manufacturer if the incident has resulted in serious injury or death to a person, HOSPITAL's procedures will be followed.
- e. The HOSPITAL is not obligated to employ the students after completion of the students assigned by the COLLEGE, after completion of the students' practical externship.
- f. All students are required to submit to the COLLEGE a urine drug screening laboratory test. Only those student receiving negative drug screens will be permitted to maintain enrollment in health-related professional courses. The COLLEGE agrees to provide the HOSPITAL with documentation of results of negative screen, upon execution of this Agreement and upon written request.
- g. Prior to placement in the practical setting, the COLLEGE will verify that each student retains personal health insurance. All students must obtain a Fingerprint Clearance Card before being placed in a clinical setting. Upon written request from the HOSPITAL to the student, each student shall provide to the HOSPITAL written confirmation of their personal health insurance coverage. The COLLEGE agrees to provide the HOSPITAL with documentation, upon execution of this Agreement and upon written request, that the students have completed: (a) Training in Health and Universal Precautions as outlined per Occupational Safety and Health Administration (OSHA) Regulations; (b) Immunizations for Hepatitis B or have signed a declination; (c) An annual Tuberculosis Skin test, chest x-ray or other appropriate health test or survey; and (d) immunization for Measles/Mumps/Rubella/Varicella, TDAP.
- h. Eligibility for Participation in Government Programs.
  1. HOSPITAL represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that HOSPITAL, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare programs.



Further, HOSPITAL represents to COLLEGE that it is not aware of any such pending action(s) (including criminal actions) against HOSPITAL or its employees or independent contractors. HOSPITAL shall notify COLLEGE immediately upon becoming aware of any pending or final action in any of these areas. COLLEGE shall promptly notify HOSPITAL if COLLEGE is excluded from or limited in participation in any federal or state healthcare financing program such as Medicare, Medicaid, AHCCCS, etc. or enters into any Program Integrity Agreement or similar settlement agreement with any such healthcare financing programs. Such exclusion, limitation or participation in a Program Integrity Agreement may, in the sole discretion of HOSPITAL, be grounds for immediate termination of this Agreement without any penalty whatsoever to HOSPITAL, and all prepaid amounts (if any) shall be prorated and unused portions refunded to HOSPITAL.

2. COLLEGE represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that COLLEGE and its employees are not otherwise ineligible for participation in federal healthcare programs. Further, COLLEGE represents to HOSPITAL that it is not aware of any such pending action(s) (including criminal actions) against COLLEGE or its employees or independent contractors. COLLEGE shall notify HOSPITAL immediately upon becoming aware of any pending or final action in any of these areas.

19. Regulatory Status.

If, prior to the expiration of the term (or any renewal term) of this Agreement, any federal, state or local regulatory body, including, but not limited to, the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services (HHS) or the Internal Revenue Service (IRS) determines that this Agreement is illegal or jeopardizes either party's tax status or otherwise materially affects either party's business, the Board of Trustees (Directors) of either party in its reasonable discretion may terminate this Agreement with such notice as it deems appropriate.

20. Deficit Reduction Act of 2005 ("DRA").

As required by DRA, HOSPITAL and its subsidiaries are mandated to provide physician, employees, contractors, and agents of HOSPITAL and subsidiaries with information about its policies and procedures in the detection and prevention of fraud, waste and abuse and applicable summaries of Federal and State Laws.

21. This document contains the entire Agreement between the parties and may not be assigned, modified, amended, altered or extended except for through a written amendment by the parties.

PIMA COUNTY COMMUNITY COLLEGE DISTRICT

Jerry Migler                      7/29/13  
Signature                                      Date

Jerry Migler

Provost & Executive Vice Chancellor

COLLEGE Mailing Address for notice purposes:

Attn: Marty Mayhew  
2202 W. Anklam Rd. HG-10  
Tucson, AZ 85709-0150

Contact/Phone:  
Marty Mayhew / 520-206-6785

TUCSON MEDICAL CENTER

Linda Wojtowicz  
Signature                                      Date

Linda Wojtowicz

Senior Vice President and COO

HOSPITAL Mailing Address for notice purposes:

Attn: COO  
5301 E Grant Road  
Tucson, AZ 85712

WITH COPIES TO  
LEGAL DEPT AND  
CONTRACTING DEPT  
AT SAME ADDRESS

Contact/Phone:  
Katie Brooks / 520-324-2281

## TMC HealthCare Policy

### **PREVENTION AND DETECTION OF FRAUD, WASTE, AND ABUSE AND APPLICABLE FEDERAL AND STATE LAWS**

1. **Scope Applicability:** System Wide; this policy applies to all staff, physicians, employees, contractors, and agents of TMC HealthCare and its subsidiaries.
  
2. **Purpose:** This policy re-affirms TMC HealthCare's (hereinafter, "TMCH") goal to prevent healthcare fraud, waste and abuse. Our policy encourages our employees to seek assistance with compliance-related questions and requires them to provide information on their suspected or actual compliance concerns as addressed in TMCH's Code of Business Ethics and Conduct (hereinafter, "Code of Conduct"). This policy provides information about TMCH policies and procedures to prevent and detect fraud, waste and abuse in the administration of government healthcare contracts and programs, certain Federal and State laws, and non-retaliatory protections extended to persons reporting questionable activity.
  
3. **TMCH Policies and Procedures for Preventing and Detecting Fraud.** TMCH is committed to conducting business activities in an ethical manner and within the letter and spirit of all applicable laws and regulations.

The TMCH Board of Trustees has approved its Corporate Compliance Program that has been operational for a number of years. This compliance program has preventive and detective programs and practices to educate individuals and empower them to seek assistance and report concerns without fear that by doing so such reporting will be viewed as a performance deficiency or trigger any adverse action. The Corporate Compliance Program encompasses a Compliance Plan, Code of Conduct, Employee Handbook, and certain policies and procedures related to TMCH's business activities.

Collectively, the Code of Conduct, Employee Handbook and the Corporate Compliance Plan and polices are designed to promote ethical behavior and compliance with all applicable laws and regulations. TMCH maintains a [Corporate Compliance Intranet site](#) which includes compliance policies and procedures, the Code, and other materials, references and education on compliance matters. An ethics hotline is also maintained to receive, record and take appropriate action on any alleged or actual violation of company policy or law.

In addition to the Compliance Program, certain other activities within TMCH are undertaken to complement the Compliance Program. They include an active Internal Audit function and educational programs for employees to help TMCH management and the Board in detecting, preventing and reporting fraud, and ensuring business processes are conducted in accordance with its Code. TMCH also has established a policy that all physicians and staff must document and bill appropriately for the services that are performed.

#### 4. Non-Retaliation Protections

A. False Claims Act. The False Claims Act (hereinafter, “FCA”) includes protections for people who file qui tam lawsuits. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful reporting activities conducted in furtherance of an action under the FCA may bring an action in Federal District Court seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages, and fees. In addition to the FCA protections, other federal laws also apply in providing employee non-retaliatory protections, and are shown on attachment (1).

B. State Laws: In Arizona, the Medicaid program is known as the “Arizona Health Care Cost Containment System (AHCCCS)”. The State of Arizona, under the Arizona Revised Statutes, Title 36, Chapter 4, provides protections against retaliation for reports concerning possible violations of law or a standard of practice.

C. TMCH Protections. TMCH requires that **all physicians, staff and employees who believe someone may be violating the law, the Code of Conduct, or any of the Compliance Policies or Procedures must report it immediately** to the TMCH Ethics Hotline, Corporate Compliance Officer or to another TMCH official (e.g., the President, Chief Operating Officer, Chief Legal Officer, Chief Medical Officer, Chief Financial Officer, or the individual’s Department Chair or Supervisor).

Corporate Compliance Officer: 520.324.1962

Ethics Hotline: 1.877.635.4645 (Toll Free)

The Compliance Intranet site includes information on reporting compliance issues. Reasonable precautions are taken to maintain the confidentiality of anyone who reports violations even if it turns out that no violation has occurred. TMCH will not discriminate or retaliate against any employee or contractor for reporting a potential improper or fraudulent activity or for cooperating in any government or law enforcement authority’s investigation or prosecution. No one may punish or seek reprisal against another individual who has conscientiously made a report in good faith. Good faith simply means that the individual honestly had a reasonable belief that there may have been a compliance violation or the individual was not sure but was honestly questioning whether a compliance violation did or would occur.

5. **Summary of Federal and State Laws**. The following is a summary of the FCA, the Program Fraud Civil Remedies Act, and certain Arizona’s Revised Statutes, and their role in preventing and detecting fraud, waste, and abuse in federal health care programs. The information provided in these materials concerning laws and regulations of the United States of America and the State of Arizona represent TMC HealthCare’s understanding of those laws and are not intended to constitute legal advice nor to be a substitute for the actual laws, regulations and interpretative court rulings. In the event of any conflict between these materials and the applicable laws, regulations or court rulings, then the actual laws, regulations and interpretative court rulings shall govern.



A. Federal False Claims Laws:

1) False Claims Act; 31 U.S.C. §§ 3729 – 3733. The federal FCA covers fraud involving any federally funded contract or program, with the exception of tax fraud and imposes liability on any person or entity who:

- Knowingly files a false or fraudulent claim for payments to Medicare, Medicaid (AHCCCS) or other federally funded health care program;
- Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid (AHCCCS) or other federally funded health care program; or
- Conspires to defraud Medicare, Medicaid (AHCCCS) or other federally funded health care program by attempting to have a false or fraudulent claim paid.

A person or entity found liable under the FCA is, generally, subject to civil money penalties of between \$5,500 and \$11,000 per claim plus three times the amount of damages that the government sustained because of the illegal act.

Anyone may bring a qui tam action under the FCA in the name of the United States. An individual can share in a percentage of a government recovery in an FCA action or settlement if they bring an action on behalf of the United States as a "qui tam relator." The case is initiated by filing the complaint and all available material evidence under seal with a federal court. The complaint remains under seal for at least 60 days and will not be served on the defendant. During this time, the government investigates the complaint. The government may, and often does, obtain additional investigation time by showing good cause. After expiration of the review and investigation period, the government may elect to pursue the case in its own name or decide not to pursue the case. If the government decides not to pursue the case, the person who filed the action often has the right to continue with the case on his or her own.

2) Program Fraud Civil Remedies Act; 31 U.S.C. §§ 3801 – 3812. The Program Fraud and Civil Remedies Act (hereinafter, "PFCRA") creates administrative remedies for making false claims and false statements. These penalties are separate from and in addition to any liability that may be imposed under the False Claims Act.

The PFCRA imposes liability on people or entities that file a claim that they know or have reason to know:

- Is false, fictitious, or fraudulent;
- Includes or is supported by any written statement that contains false, fictitious, or fraudulent information;
- Includes or is supported by a written statement that omits a material fact, which causes the statement to be false, fictitious, or fraudulent, and the person or entity submitting the statement has a duty to include the omitted fact; or
- Is for payment for property or services not provided as claimed.

A violation of this section of the PFCRA is punishable by a \$5,000 civil penalty for each wrongfully filed claim, plus an assessment of twice the amount of any unlawful claim that has been paid.

In addition, a person or entity violates the PFCRA if a written statement is submitted that they know or should know:

- Asserts a material fact that is false, fictitious or fraudulent; or
- Omits a material fact that they had a duty to include, the omission caused the statement to be false, fictitious, or fraudulent, and the statement contained a certification of accuracy.

A violation of this section of the PFCRA carries a civil penalty of up to \$5,000 in addition to any other remedy allowed under other laws.

3) Other Federal Laws: Another Federal law provides criminal and civil penalties specifically against anyone who (among other things) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a Federal health care program or knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment; presents or causes to be presented a claim for a physician's service for which payment may be made under a Federal health care program and knows that the individual who furnished the service was not licensed as a physician. This law is found at 42 U.S.C. 1320a-7b, and a violation of the law can result in criminal fines of not more than \$25,000 or imprisoned for not more than five years or both. A related Federal law prohibits anyone from knowingly and willfully making or causing to be made any false statement or representation of a material fact about the conditions or operation of any institution, facility, or entity in order that it may qualify for Medicare or Medicaid certification as a hospital, critical access hospital, skilled nursing facility, nursing facility, intermediate care facility for the mentally retarded, or other entity.

B. State Laws: The State of Arizona, under the Arizona Revised Statutes, Title 36, Chapter 29, provides guidance relating to the State Medicaid program, (AHCCCS). The Statute requires Tucson Medical Center as a provider to cooperate with the administration of the program to prevent, discover and prosecute eligibility fraud. In addition to this, the Statute prohibits any person who knows or has reason to know from presenting a claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed, is false, was provided to the patient who was not eligible for payment of services, was provided by a physician who was not licensed, or violates the agreement between the provider and AHCCCS.

Anyone found guilty of the above are subject to civil fines and penalties, and may also be prosecuted under criminal statutes. Civil penalty shall not exceed \$2,000 for each item or service claimed, and is subject to an assessment of not to exceed twice the amount claimed for each item or service.

In addition to the above, Arizona also has laws regarding consumer fraud. Civil penalty shall not exceed \$10,000 for each violation, and is subject to other remedies.

## 6. Definitions

“Knowingly” means:

- Having actual knowledge that the information on the claim is false;
- Acting in deliberate ignorance of whether the claim is true or false; or
- Acting in reckless disregard of whether the claim is true or false.

“Abuse” – Provider and plan practices that are inconsistent with sound fiscal, business or medical practices, and result in unnecessary cost to the Medicare or the Medicaid (or AHCCCS) program, including, but not limited to practices that results in Medicare or AHCCCS program reimbursement for services that are not medically necessary, or that fail to meet professionally recognized standards for health care. It also includes enrollee practices that result in unnecessary cost to the Medicare or AHCCCS program.

“Fraud” - An intentional deception or misrepresentation made by a person or corporation with the knowledge that the deception could result in some unauthorized benefit under the Medicare or the AHCCCS program to himself, the corporation, or some other person. It also includes any act that constitutes fraud under applicable Federal or state health care fraud laws.

“Contractor or Agent” - Includes any contractor, subcontractor, agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, health care items or services, performing billing or coding functions, or is involved in the monitoring of health care provided by the entity.

“Employee” - Includes any employee of TMC HealthCare or any of its subsidiaries.

7. **Keywords:** False Claims, Fraud, Non-Retaliation

8. **References:**

Section 6032 of the Deficit Reduction Act of 2005  
False Claims Act; 31 U.S.C. §§ 3729 – 3733  
Program Fraud Civil Remedies Act; 31 U.S.C. §§ 3801 – 3812  
Arizona Revised Statutes, Title 36, Chapter 29  
Corporate Compliance Intranet:  
<http://econnection.tmcaz.com/C8/Corporate%20Compliance/default.aspx>

9. **Attachment 1 - Other Federal Laws that Provide Non-Retaliation Protections to Employees**

**Attachment 1 – Other Federal Laws that Provide Non-Retaliation Protections to Employees**

**OCCUPATIONAL SAFETY & HEALTH ACT OF 1970**

Occupational Safety and Health (OSH) Act of 1970 created the Occupational Safety and Health Administration (OSHA) within the Department of Labor in order to reduce workplace hazards and implement safety and health programs. The federal agency, OSHA, sets and enforces workplace safety standards. The act prohibits an employer from discharging or discriminating against any employee who has exercised a right, made a complaint, or participated in an investigation or proceeding under or related to the act and establishes a procedure for relief. (29 U.S.C. § 660 (c); 29 C.F.R. § 1904.36, 1977.3-. 4)

**HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT**

Health Insurance Portability and Accountability Act of 1996 (HIPAA) directed the United States Department of Health and Human Services to establish standards for the privacy and security of protected health information, among other things. In addition to protecting individuals who exercise a right under the act, HIPAA prohibits all covered entities, including hospitals, from engaging in intimidating or retaliatory acts against any individual who refused to violate HIPAA or who has filed a complaint, participated in an investigation, compliance review, proceeding, or hearing under HIPAA. (45 C.F.R. § 164.530 (g)).

**PATIENT SAFETY & QUALITY IMPROVEMENT ACT OF 2005**

The Patient Safety & Quality Improvement Act of 2005 establishes confidential reporting structure in which health care professionals and entities can voluntarily report information on errors in order to facilitate data analysis and encourage the development of patient safety improvements strategies. The bill clearly prohibits any adverse employment action against any individual that in good faith reported information. (42 U.S.C. § 299 et seq.)

**CIVIL RIGHTS ACT OF 1991**

Civil Rights Act of 1991 amended the Civil Rights act of 1964 to strengthen and improve federal civil rights laws by providing for damages and clarifying provisions, among other things. The act prohibits employers from retaliating or discriminating against any individual who utilizes the protections of the act or who has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the act. (42 U.S.C. § 2000e-3a)

**AGE DISCRIMINATION ACT OF 1975**

Age Discrimination Act of 1975 prohibits any entity receiving Federal assistance, such as payments under the Medicare program, from discriminating against any individual on the basis of age. The act also prohibits an employer from discriminating, intimidating, or retaliating against any employee or applicant that opposes performing an unlawful

practice under the act or makes a charge, testifies, assists or participates in an investigation or proceeding under the act. (29 U.S.C. § 623 (d); 45 C.F.R. § 90.46)

#### **REHABILITATION ACT OF 1973, SECTION 504**

Rehabilitation Act of 1973, Section 504, prohibits discrimination against any individual with a disability by any entity that receives Federal financial assistance, such as payments under the Medicare program. The law requires employers to adopt a grievance procedure for employees and allows for sanctions against person who had the ability to exercise control over the person who discriminated. (29 U.S.C. § 794; 45 C.F.R. § 84.6-.7).

#### **AMERICANS WITH DISABILITIES ACT**

Americans with Disabilities Act prohibits any employer with 15 or more employees from discriminating against any individual with a disability in any employment practice including hiring, firing, advancement, training, and compensation. The act prohibits retaliation, coercion, interference, or intimidation in relation to any right provided or protected under the act. (42 U.S.C. § 12203; 29 C.F.R. § 1630.12)

#### **FAIR LABOR STANDARDS ACT**

Fair Labor Standards Act establishes minimum standards for fair pay and hours for employees and applies to most employers in the country. The act also prohibits employers from discharging or discriminating in any manner against any employee that has filed a complaint or participated in any investigation or proceeding under the act. (29 U.S.C. § 215(a)(3)).

#### **FAMILY MEDICAL LEAVE ACT**

Family Medical Leave Act requires employers with at least 50 employees to grant eligible employees up to 12 workweeks of unpaid leave during a 12-month period to tend to a medical condition of the employee or to the employee's family. The act prohibits discrimination, interference, or retaliation against any individual whether or not an employee, who exercised rights, made inquiries, filed a complaint, or participated in an investigation under this act. (29 U.S.C § 2615; 29 C.F.R. § 825.220)

#### **MEDICARE CONDITIONS OF PARTICIPATION**

Medicare Conditions of Participation (COPs) apply to any medical provider that signs a provider agreement to treat patients and receive reimbursement from Medicare Program. Although the COPs do not explicitly provide employee non-retaliatory protections, the regulations do require each provider as a condition of their participation to meet the requirements of the Civil Rights Act, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. All three of those Acts do contain explicit employee protections. (42 C.F.R. § 489.10)

Revised and Approved by Compliance Officer and Chief Legal Officer  
Effective Date: 10/7/2011  
Supersedes: 5/12/2009