Title: **Preventing, Detecting and Reporting Fraud, Waste and Abuse**	**Policy Number:** CP-07

I. PURPOSE

Park Nicollet Health Services and its affiliates including Methodist Hospital, Park Nicollet Clinic, Park Nicollet Institute, Health Care Products, Foundation and TRIA Orthopaedic Center is committed to preventing, detecting and correcting fraud, waste and abuse in health care. An important part of those efforts includes our commitment to working with federal and state authorities to combat health care fraud. The purpose of this policy is to:

A. Describe the Federal False Claims Act, the Minnesota False Claims Against the State Statute, the Deficit Reduction Act and other laws designed to combat health care fraud,

B. Describe the organization's commitment to reporting to, and cooperating with, federal and state authorities in an effort to combat health care fraud

C. Inform our employees, contractors and agents of their obligations to report suspected health care fraud in good faith, and

D. Inform our employees, contractors and agents of their rights to be protected as good faith reporters of suspected health care fraud.

II. POLICY/PROCEDURE(S)

A. Laws Designed to Combat Health Care Fraud

Park Nicollet Health Services is committed to upholding the applicable laws pertaining to detecting and preventing fraud, waste and abuse in health care. The federal government and the State of Minnesota have established various laws designed to combat fraud, waste and abuse in health care.

1. **Federal False Claims Act (the FCA).** The FCA was established to counteract fraudulent billings submitted to government payors of health care. In summary, the FCA prohibits:

   - Knowingly presenting, or causing to be presented to the government a false claim for payment;
   - Knowingly making, using, or causing to be made or used, a false record or statement to get a false claim paid or approved by the government;
   - Conspiring to defraud the government by getting a false claim allowed or paid; and
   - Knowingly making, using, or causing to be made or used a false record to avoid, or decrease an obligation to pay or transmit property to the government.

   Liability for committing fraud against the government could result in criminal punishment or civil fines of $5,000 to $10,000 per false claim. The FCA also contains *qui tam*, or whistleblower, provisions. *Qui tam* is a unique mechanism in the law that allows citizens with evidence of fraud against government contracts and programs to sue, on behalf of the government, in order to recover the stolen funds. In compensation for the risk and effort of filing a *qui tam* case, the citizen whistleblower or "relator" may be awarded between 15 and 30 percent of the funds recovered.

The Government may pursue a false claims matter in an administrative proceeding, rather than court action, under the Program Fraud Civil Remedies Act (the "PFCR Act"). The PFCR Act permits Federal agencies to use administrative procedures to impose penalties and assessments on persons who submit false, fictitious, or fraudulent claims to the government. If an administrative remedy is pursued, the *qui tam* plaintiff initiating the action has the same rights as they would have if the action had proceeded under the FCA.

2. **Minnesota False Claims Against the State Statute**. The statute is similar to the FCA. In summary, the statute imposes sanctions against individuals or entities for any of the following:

   - Knowingly presents or causes to be presented to any officer, employee, or agent of this state a false claim for medical assistance.
   - Knowingly makes, uses, or causes to be made or used a false record or statement to obtain approval or payment of a false claim for medical assistance.
   - Conspires to defraud this state by obtaining allowance or payment of a false claim for medical assistance, or by knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Medical Assistance program.
   - Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease any obligation to pay or transmit money or property to the Medical Assistance program.
   - Is a beneficiary of the submission of a false claim for medical assistance to any officer, employee, or agent of this state, knows that the claim is false, and fails to disclose the false claim to this state within a reasonable time after the person becomes aware that the claim is false.

   Contact the Law Department or the Office of Integrity and Compliance for information about laws related to Fraud, Waste, and Abuse and False Claims Acts in any state in which HealthPartners operates (see attachment for listing of states).

3. **Deficit Reduction Act of 2005 (DRA).** The DRA was established to slow the pace of spending growth in both Medicare and Medicaid while maintaining commitment to the beneficiaries of these programs. In summary, the DRA provides for the creation of a Federal Medicaid Integrity Program to oversee the states and the programs for combating fraud, waste and abuse.

4. **Other Federal Laws.** Other federal laws and programs contain important provisions designed to combat health care fraud. These laws include, but are not limited to:

   - The Social Security Act, including Medicare Parts A, B and D,
   - The Anti-kickback Statute, the Stark Law and prohibitions on inducements to beneficiaries,
   - The Health Insurance Portability and Accountability Act (HIPAA), and
   - The Federal Food, Drug and Cosmetic Act.

Park Nicollet Health Services is committed to complying with the applicable requirements of these laws and associated regulations, contractual obligations and sub-regulatory guidance.

B. Reporting to, and Cooperating with, Federal and State Authorities

Park Nicollet Health Services, through its Integrity and Compliance Program, is committed to identifying and reviewing suspected violations of law, regulation, contractual obligations and other requirements that may result

in overpayment, underpayment or instances of fraud, waste and abuse. When reviews identify overpayments to the organization from the government or other inaccuracies, they will be reported and repayments or adjustments will be made as appropriate.

Park Nicollet Health Services will cooperate with and respond appropriately to data requests, audits and other government inquiries, for example from the Centers for Medicare and Medicaid Services (CMS), the Office of the Inspector General of the US Department of Health and Human Services (OIG), Minnesota's Department of Human Services (DHS), their designees and law enforcement. In addition, Park Nicollet Health Services will appropriately refer suspected fraud, waste or abuse to CMS, DHS or their designees for further investigation.

C. Obligations to Report Suspected Health Care Fraud

It is the responsibility of every employee, contractor and agent to report to Park Nicollet Health Services any suspected health care fraud, waste or abuse. Reports should be directed to an individual's supervisor or to the Integrity and Compliance Department. To make a report to the Integrity and Compliance Department, which may be done anonymously, you may either:

- Contact the Chief Compliance Officer or other members of the Integrity and Compliance Department directly, or

- Call the Integrity and Compliance Hotline – 1-866-444-3493.

All reports received by the Integrity and Compliance Department will be appropriately reviewed and investigated in accordance with Integrity and Compliance Department procedures, which include appropriate protections for individuals who report their concerns anonymously or confidentially. Supervisors who receive reports of suspected fraud, waste or abuse must review the report and, if appropriate, initiate an investigation. Supervisors who receive such reports should contact the Integrity and Compliance Department for assistance with investigations.

Employees also have the right to report suspected fraud, waste or abuse directly to the government. Reporting information can be found at http://www.oig.hhs.gov/fraud/report-fraud/index.asp. However, Park Nicollet Health Services strongly encourages employees to first bring their concerns to the attention of the organization so that we can fulfill our commitments to combating fraud, waste and abuse.

D. Rights to Be Protected as a Good Faith Reporter of Suspected Fraud, Waste or Abuse

Park Nicollet Health Services strictly forbids retaliation against anyone who, in good faith, reports suspected fraud, waste or abuse, to the organization or to the government, in accordance with reporter protections under federal and state laws. Employees, contractors and agents will not suffer any penalty or retribution for reporting, in good faith, any known or suspected concern. Park Nicollet Health Services will take appropriate disciplinary action against anyone that penalizes, ostracizes or harasses someone who has reported concerns in good faith. However, this non-retaliation policy does not allow people to avoid discipline if they are engaged in improper behavior, including, without limitation, making reports that the reporter knows to be false or to be in reckless disregard of the truth. Anyone who has been involved in inappropriate activity will be subject to appropriate discipline.

Under federal law, any person who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in his or her employment, because of actions as a whistleblower, is entitled to all relief necessary to make the employee whole. This includes reinstatement with the same seniority status that the person would have had but for the discrimination, two times the amount of back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

III. COMPLIANCE

Park Nicollet Health Services will report fraud, waste, and abuse, as appropriate, to other applicable Federal or State agencies following the protocols of the applicable agencies. All documentation of referrals are maintained by the appropriate department(s).

All employees, and related entities must comply with this policy, including, without limitation, provisions related to the good faith reporting of suspected health care fraud, waste and abuse, and provisions related to the prohibition against retaliation against individuals who have reported such suspicions in good faith. Failure to comply with this policy may result in disciplinary action, up to and including termination.

IV. OTHER RESOURCES

Internal Resources:

- Code of Conduct
- Code of Conduct Training
- Integrity and Compliance Procedures for Reviewing and Investigating Reported Compliance Concerns

Other Resources:

- **Federal False Claims Act**: http://www.oig.hhs.gov/authorities/docs/06/waisgate.pdf
- **Minnesota False Claims Against the State Statute**: Minnesota Statutes Chapter 15C
- **Minnesota Whistleblower Protection Law**: Minnesota Statutes Section 181.932
- **Deficit Reduction Act**: http://frwebgate.access.gpo.gov/cgibin/getdoc.cgi?dbname=109_cong_bills&docid=f:s1932enr.txt.pdf
- **Social Security Act** - P.L. 74-271 (49 Stat. 620)
- **Antikickback** - 42 U.S.C. 1320a-7b
- **Stark** - 42 U.S.C. 1395nn
- **Prohibition on Inducements to Beneficiaries** - Social Security Act 1128A(a)5, 42 USC §1320a-7a(a)(5)
- **FDAC Act** - 21 U.S.C. 301
- Fraud Enforcement and Recovery Act of 2009
- Patient Protection and Affordable Care Act (Pub. L. No. 111-148, 124 Stat. 119, 747-775)

VIII. APPROVAL(S)

Original approved by: Park Nicollet Compliance Committee
Update approved by: Park Nicollet Compliance Committee
Content Expert: Tracy E. Tracy, Senior Director Care Group