

# Compliance with false claims acts under federal and state laws

<b>Policy Number</b>	BPM-04
<b>Title</b>	Compliance With False Claims Acts Under Federal and State Laws
<b>Implementation Date</b>	August 2007
<b>Updated</b>	April 2009, January 2015, January 2016, April 2017, November 2021
<b>Effective Date</b>	November 2021

## Statement of Policy

Laboratory Corporation of America Holdings and its subsidiaries (together, “Labcorp” or the “Company”) comply with all relevant federal and state laws and regulations, including but not limited to those laws and regulations related to coding and billing practices. No employee, contractor, vendor, or agent has the authority to direct, participate in, approve, or to allow any violation of any of the laws described in this Policy.

## Scope of Policy

This Policy applies to all employees, directors, temporary workers, contractors, vendors, and agents of the company and its subsidiaries. This Policy also applies to referral sources as defined below.

## Purpose

The purpose of this Policy, along with the *Labcorp Code of Conduct and Ethics* and other compliance documents, is to set forth the Company’s commitment to accurate coding and billing practices; compliance with the federal Civil False Claims Act and similar state and federal laws that prohibit the submission of false or fraudulent claims; and compliance with state Medicaid plan amendments promulgated to comply with Section 6032 (Employee Education About False Claims Recovery) of the Deficit Reduction Act of 2005 (“DRA”).

## Definitions

1. **Deficit Reduction Act of 2005 (“DRA”)** - Federal law which, among other things, requires that state Medicaid Plans be amended to require certain health care organizations to establish written policies that address the following:
  - a. the federal Civil False Claims Act (“FCA”);
  - b. state laws pertaining to civil or criminal penalties for false claims and statements;
  - c. the *qui tam* relator protections provided under both federal and state laws, and the role of these laws in preventing and detecting fraud, waste and abuse;

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- d. the administrative remedies found in the Program Fraud Civil Remedies Act; and
  - e. the Company's policies and procedures for detecting and preventing fraud, waste and abuse.
2. **Federal Civil False Claims Act ("FCA")** - Federal law which prohibits knowingly presenting or causing to be presented a false or fraudulent claim for payment or approval; knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim, conspiring to defraud the Government by getting a false or fraudulent claim paid or allowed; or knowingly concealing and improperly avoiding or decreasing an obligation to pay or transmit money or property to the government.
  3. **Overview** - An overview of the FCA and general discussion of state laws is provided on Exhibit A.

## Procedure

1. **Information on Compliance with the FCA and Similar State Laws**
  - a. **Employees** - The Company shall make information available to Labcorp employees regarding compliance with the FCA, similar state laws, and other false claims laws by providing general information in the *Labcorp Code of Conduct and Ethics* and by providing summaries of such laws as Exhibits to this policy and on the Corporate Compliance Department page located on OneWorld. Additionally, information regarding these laws is available from representatives of the Corporate Compliance Department or Divisional Compliance Officers.
  - b. **Contractors, Vendors, and Agents** - The Company shall make information available to all contractors, vendors and agents regarding compliance with the FCA, similar state laws, and other false claims laws by providing summaries of such laws as Exhibits to this policy and as available on the Vendor Communications page of the Labcorp internet at [www.Labcorp.com/Contractors](http://www.Labcorp.com/Contractors). Additionally, information regarding these laws is available from representatives of the Corporate Compliance Department.
2. **Reporting Suspected Non-compliance with the FCA and Similar State Laws**

Any employee, contractor, vendor, or agent who knows or reasonably believes that the Company, including any employee, contractor, vendor, or agent, may be involved in any activity prohibited by the FCA, similar state laws, or other fraud and abuse laws shall immediately report such belief using established Company compliance reporting procedures. The Company maintains a system for its employees, contractors, vendors and agents to use in reporting suspected or known violations of Company policies and/or unlawful conduct.

Labcorp's reporting system is referred to as the Action Line and may be used by all employees and external parties. The Action Line is available 24 hours a day, seven days a week.

There are three methods to report concerns through the Action Line:

1. Report online at [labcorp.ethicspoint.com](http://labcorp.ethicspoint.com). Options are available to display the report form in your preferred language.

2. Call the Labcorp Action Line call center:
  - a. If located in the U.S. or Canada, dial 844 625 0967.
  - b. If located outside the U.S. or Canada, dial the country specific toll-free number provided at [labcorp.ethicspoint.com](http://labcorp.ethicspoint.com).
  
3. Report through your mobile device via Labcorp's QR code and mobile link at



[labcorpmobile.ethicspoint.com](http://labcorpmobile.ethicspoint.com)

All reports submitted via the Labcorp Action Line call center or online portal are treated confidentially. Reporting individuals and entities can choose to remain anonymous and are not required to disclose their identity, contact details or location.

The Company also encourages employees to follow the **Four-Step Communication Program for Reporting and Resolving Compliance Issues**. This program includes the following guidelines for raising concerns regarding a potential compliance issue:

- a. Discuss with your manager or supervisor.
  - b. Discuss with your department leadership.
  - c. Discuss with your compliance officer or liaison, your local human resources representative, and/or your general manager or segment senior officer.
  - d. Contact Human Resources, Corporate Compliance Department, or the Law Department.
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3. **Monitoring Compliance with the FCA and Similar State Laws**

The Company shall maintain internal systems and controls to monitor its billing practices on an ongoing basis to ensure compliance with the FCA and similar federal and state laws.

### **Corporate Compliance Department Review, Approval, and Assistance**

Any exception, change or deviation from this Policy must be reviewed and approved by the Corporate Compliance Department. The Corporate Compliance Department and the Law Department will be available to answer any questions and to provide assistance and advice to employees concerning this Policy. Questions regarding specific terms, situations, or problems may be forwarded to the Corporate Compliance Department or the Law Department for assistance and advice.

APPROVED BY CORPORATE COMPLIANCE COMMITTEE: November 15, 2021 Meeting Minutes

## Exhibit A

### False Claims Act and State Overview

#### 1. Federal Civil False Claims Act

The federal civil False Claims Act, 31 U.S.C. § 3729, *et seq.* (“FCA”), was originally enacted in the United States in 1863 after a series of Congressional inquiries disclosed several instances of fraud among defense contractors during the Civil War. The current FCA was passed by Congress in 1982 and was amended in 1986. The FCA contains provisions designed to enhance the government’s ability to identify and recover losses it suffers due to fraud. Since the FCA’s enactment, the government has recovered billions of dollars through litigation or settlement of allegations that corporations and individuals violated the statute and thereby improperly obtained federal health care program funds. Congress and the government believe that the FCA is a very effective means to detect fraud, by encouraging individuals, often called “*qui tam* relators” or “relators,” to uncover and report fraud, and to prevent fraud, by creating strong incentives for companies and individuals to be vigilant in their pursuit of compliance and avoid liability for multiple damages and penalties under the statute.

##### a. FCA Prohibitions

The federal civil False Claims Act prohibits any individual or company from knowingly submitting false or fraudulent claims for U.S. Government funds, causing such claims to be submitted, making a false record or statement material to such a claim, conspiring to commit a violation of the FCA, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the government. Under the statute, the terms a person “knowing” and “knowingly” mean the following:

- i. has actual knowledge of the information;
- ii. acts in deliberate ignorance of the truth or falsity of the information; or
- iii. acts in reckless disregard of the truth or falsity of the information. Thus, specific intent to defraud is not required for there to be a violation of the law. Examples of the types of activity prohibited by the FCA include billing for services that were not actually rendered and upcoding (the practice of billing for a more highly reimbursed service or product than the one provided).

##### b. Penalties

Civil penalties may be imposed in accordance with Federal Program Fraud Civil Remedies Act, 31 U.S.C. § 3801 – 3812. Individuals or companies found to have violated the statute are liable for a civil penalty for each claim of not less than \$11,665 and not more than \$23,331, plus up to three times the amount of damages sustained by the federal government. Penalty amounts may be adjusted for inflation according to the table in 28 CFR 85.5.

##### c. *Qui Tam* and *Qui Tam* Relator Protection Provisions

The FCA authorizes the United States Attorney General to bring actions for false or fraudulent claims submitted by individuals or companies that do business with, or are reimbursed by, the United States. The statute also authorizes private citizens to file a lawsuit in the name of the United States alleging violations of the statute. Commonly known as a *qui tam* action, a lawsuit brought under the FCA by a private citizen commences upon the filing of a civil complaint in federal court under seal and service of a disclosure of material evidence on the Attorney General. The government has sixty days to investigate the allegations in the complaint and decide whether it will join the action, in which case the complaint is unsealed, and the Department of Justice or a United States Attorney’s Office takes the lead role in prosecuting the claim. If the government decides not to join, the *qui tam* relators may pursue the action alone, but the government may

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still join at a later date if it demonstrates good cause for doing so. As an incentive to bring these cases, the Act provides that *qui tam* relators who file a *qui tam* action may receive a reward of 15-30% of the monies recovered for the government plus attorneys' fees and costs. This award may be reduced if, for example, the court finds the *qui tam* relators planned and initiated the violation. The FCA also provides that putative *qui tam* relators who prosecute clearly frivolous *qui tam* claims can be held liable to a defendant for its attorneys' fees and costs. *Qui tam* relators are also offered certain protections against retaliation for bringing an action under the Act or trying to stop a violation of the FCA. Employees, contractors, or agents who are discharged, demoted, harassed, or otherwise confront discrimination in furtherance of such an action or other efforts to stop a violation of the FCA are entitled to all relief necessary to make the employee, contractor, or agent whole. Such relief may include reinstatement, double back pay, and compensation for any special damages including litigation costs and reasonable attorneys' fees.

**d. State False Claims Acts**

Many states have enacted statutes similar to the federal FCA that provide a civil remedy for the submission of false and fraudulent claims to state health care programs, including primarily Medicaid. Like the federal FCA, several of these statutes include *qui tam* relators' provisions that allow enforcement through *qui tam* actions and protect *qui tam* relators from retaliation.

Several states also impose criminal penalties for the submission of false claims to a state health care program. For example, Ohio, Michigan and Louisiana have statutes that provide for criminal penalties for submission of false claims to the state's Medicaid program.

The Deficit Reduction Act of 2005 ("DRA") provides a financial incentive for states to enact false claims legislation specifically addressing the Medicaid program. If a State False Claims Act is determined to meet certain requirements set by the federal Department of Health and Human Services, Office of the Inspector General ("OIG"), the State is entitled to an increase in its share of any amounts recovered under a State false claim action. In order for a State to qualify for the additional recovery, the State must have in effect a law that meets the specific requirements of the DRA. Specific State Laws reviewed by the OIG can be located on the internet at: <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp>.

The attached chart lists state FCA statutes, whether they include *qui tam* provisions, whether the OIG has deemed the state statute to be in compliance with the DRA and key differences between the state statutes and the federal FCA.

This Exhibit is subject to periodic updates. For more information, please contact the Corporate Compliance Department at 336-436-4026.

**Updated March 2010**

- Updated information included states with *qui tam* provisions and states with some form of false claims act but with no *qui tam* provision.

**Updated November 2010**

- Updated for revisions to federal FCA and to include State False Claims Act Comparative Chart.

**Updated November 2011**

- Annual review of State False Claim Acts

**Updated January 2013**

- Annual review of State False Claim Acts

**Updated January 2015**

- Annual review of State False Claim Acts

**Updated February 2017**

- Annual review of State False Claim Acts

**Updated May 2021**

- Annual Review of State False Claim Acts

**Updated November 2021**

- Updated reference to the Federal Program Fraud Civil Remedies Act penalty amounts and added specific information to the comparative chart applicable to New Jersey only

## State False Claims Acts:

## Comparative Chart (2021)

State	Statute	Qui tam Provision	Deemed DRA Compliant	Key differences from federal FCA
Alabama	No FCA equivalent	N/A	N/A	
Alaska	Alas. Stat. § 09.58.010 <i>et seq.</i>	Yes	N/A	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 09.58.010(b)]</li> <li>Minimum and maximum civil penalties of \$5,500 and \$11,000, respectively, are not qualified by “per claim” [§ 09.58.010(c)(1)]</li> </ul>
Arizona	No FCA equivalent	N/A	N/A	
Arkansas	Ark. Code Ann. § 20-77-911 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
California	Cal. Gov’t Code § 12650 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 12651(a)(8)]</li> <li>Provides for retroactive application [§ 12654(b)]</li> </ul>
Colorado	Colo. Rev. Stat. Ann. § 25.5-4-304 <i>et seq.</i>	Yes	Yes	
Connecticut	Conn. Gen. Stat. Ann. § 17B-301 <i>et seq.</i>	Yes	Yes	
Delaware	Del. Code tit. 6, § 1201 <i>et seq.</i>	Yes	Yes	
District of Columbia	D.C. Code § 2-308.13 <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 2-308.14(a)(8)]</li> <li>Includes liability for receipt of inadvertent payment or overpayment by the District [§ 2-308.14(a)(9)]</li> </ul>

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State	Statute	Qui tam Provision	Deemed DRA Compliant	Key differences from federal FCA
<b>Florida</b>	Fla. Stat. § 68.081 <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Provisions with language differences relevant for DRA compliance identified by OIG include prohibited acts, retaliation protection, public disclosure bar, and limitation on public employee suits</li> </ul>
<b>Georgia</b>	Ga. Code Ann. § 49-4-168 <i>et seq.</i>	Yes	Yes	
<b>Hawaii</b>	Haw. Rev. Stat. § 661-21 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 661-21(a)(7)]</li> </ul>
<b>Idaho</b>	No FCA equivalent	N/A	N/A	
<b>Illinois</b>	740 Ill. Comp. Stat. § 175/1 <i>et seq.</i>	Yes	Yes	
<b>Indiana</b>	Ind. Code. § 5-11-5.5 <i>et seq.</i>	Yes	Yes	
<b>Iowa</b>	Iowa Code § 685.1 <i>et seq.</i>	Yes	Yes	
<b>Kansas</b>	Kan. Stat. Ann. § 75-7501 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
<b>Kentucky</b>	No FCA equivalent	N/A	N/A	
<b>Louisiana</b>	La. Rev. Stat. Ann. § 46:439.1 <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Provisions with language differences relevant for DRA compliance identified by OIG include public disclosure bar</li> </ul>
<b>Maine</b>	Me. Rev. Stat. Ann. tit. 22, § 15 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
<b>Maryland</b>	Md. Code Ann., Health-Gen. § 2-601 <i>et seq.</i> (General)	Yes, but for filing suit only	No	<ul style="list-style-type: none"> <li>Provides for dismissal of complaint if state declines [§ 2-604(a)(7)]</li> <li>Provides for retroactive application [§ 2-609(b)]</li> </ul>



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State	Statute	Qui tam Provision	Deemed DRA Compliant	Key differences from federal FCA
<b>Massachusetts</b>	Mass. Gen. Laws Ch. 12 § 5 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 5B(10)]</li> </ul>
<b>Michigan</b>	Mich. Comp. Laws § 400.601 <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Includes separate provisions regarding knowledge and rebuttable presumptions [§ 400.608]</li> <li>Provisions with language differences relevant for DRA compliance identified by OIG include prohibited acts, retaliation protection, and public disclosure bar</li> </ul>
<b>Minnesota</b>	Minn. Stat. Ann § 15C.01 <i>et seq.</i>	Yes	Yes	
<b>Mississippi</b>	Miss. Code Ann. § 43-13-203	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
<b>Missouri</b>	Mo. Rev. Stat. § 191.900 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
<b>Montana</b>	Mont. Code Ann. § 17-8-401 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 17-8-403(1)(h)]</li> <li>Provides for presentment of evidence by relator at hearing before case dismissed [§ 17-8-407]</li> </ul>
<b>Nebraska</b>	Neb. Rev. St. § 68-934 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>

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State	Statute	Qui tam Provision	Deemed DRA Compliant	Key differences from federal FCA
<b>Nevada</b>	Nev. Rev. St. 357.010 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 357.040(h)]</li> </ul>
<b>New Hampshire</b>	N.H. Rev. Stat. § 167:61-a <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 167:61-b(f)]</li> </ul>
<b>New Jersey *</b>	N.J. Stat. Ann. § 2A:32C-1 <i>et seq.</i>	Yes	No	<ul style="list-style-type: none"> <li>Provisions with language differences relevant for DRA compliance identified by OIG include prohibited acts, retaliation protection, and public disclosure bar</li> </ul>
<b>New Mexico</b>	N.M. Stat. Ann. § 44-9-1 <i>et seq.</i> (General)	Yes	No	<ul style="list-style-type: none"> <li>Provides for retroactive application [§ 44-9-12(A)]</li> <li>Does not include “original source” exception to the public disclosure bar</li> <li>Does not include statute of limitations</li> </ul>
	N.M. Stat. Ann § 27-14-1 <i>et seq.</i> (Medicaid)	Yes	No	<ul style="list-style-type: none"> <li>Provides that only “affected” persons may file private civil actions under the act [§ 27-14-7]</li> <li>Includes shorter statute of limitations (4 years) [§ 27-14-13]</li> </ul>
<b>New York</b>	N.Y. State Fin. Law § 187 <i>et seq.</i>	Yes	Yes	
<b>North Carolina</b>	N.C. Gen. Stat. § 1-605 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Provides for retroactive application [2009 N.C. Sess. Laws 554, § 4]</li> </ul>
<b>North Dakota</b>	No FCA equivalent	N/A	N/A	
<b>Ohio</b>	No FCA equivalent	N/A	N/A	
<b>Oklahoma</b>	Okla. Stat. tit. 63, § 5053.1 <i>et seq.</i>	Yes	Yes	

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State	Statute	Qui tam Provision	Deemed DRA Compliant	Key differences from federal FCA
Oregon	Or. Rev. Stat. § 180.750 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
Pennsylvania	No FCA equivalent	N/A	N/A	
Rhode Island	R.I. Gen. Laws § 9-1.1-1 <i>et seq.</i>	Yes	Yes	
South Carolina	S.C. Code Ann. § 43-7-60 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
South Dakota	No FCA equivalent	N/A	N/A	
Tennessee	Tenn. Code Ann. § 4-18-101 <i>et seq.</i> (General)	Yes	No	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 4-18-103 (a)(8)]</li> <li>Includes higher maximum reward for relators [§ 4-18-104(g)]</li> </ul>
	Tenn. Code Ann. § 71-5-181 <i>et seq.</i> (Medicaid)	Yes	Yes	<ul style="list-style-type: none"> <li>Includes higher civil penalties [§ 71-5-182(a)(1)]</li> </ul>
Texas	Tex. Hum. Res. Code Ann. § 36.001 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes higher civil penalty for injury to elder person, disabled person, or youth [§ 36.052(a)(3)]</li> </ul>
Utah	Utah Code Ann. § 26-20-1 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>
Vermont	Vt. Stat. Ann. tit. 32, §§ 630- 642	Yes	Yes	<ul style="list-style-type: none"> <li>Includes liability for inadvertently submitted false claims [§ 631(a)(11)]</li> </ul>
Virginia	Va. Code Ann. § 8.01-216.1 <i>et seq.</i>	Yes	Yes	
Washington	2012 Wash. Sess. Laws, 241 § 201 <i>et seq.</i>	Yes	Yes	<ul style="list-style-type: none"> <li>Includes longer statute of limitations [§ 210(2)]</li> </ul>
West Virginia	No FCA equivalent	N/A	N/A	

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Wisconsin	Repealed 2015, no current FCA equivalent	N/A	N/A	
Wyoming	Wyo. Stat. Ann. §§ 42-4-301 <i>et seq.</i>	No	No	<ul style="list-style-type: none"> <li>Does not include <i>qui tam</i> provision</li> </ul>

**\*New Jersey: The following additional information regarding health care claims, employee protections, civil penalties and fraud prevention is applicable to the state of New Jersey only:**

New Jersey Medical Assistance and Health Services Act – Criminal/ Civil Penalties, N.J.S. 30:4D-17(a) – (d); .J.S. 30:4D-7.h.; N.J.S. 30:4D-17(e) – (i); N.J.S. 30:4D-17.1.a, including potential disbarment/exclusion from the program

New Jersey Health Care Claims Fraud Act, N.J.S.A 2C:21-4.2 and 4.3; N.J.S. 2C:51-5, including potential loss of healthcare professional license

New Jersey Conscientious Employee Protection Act, N.J.S.A 34:19-1 *et seq.*, including employee whistleblower protections

New Jersey Insurance Fraud Prevention Act, N.J.S.A 17:33A-1 *et seq.*

NJ Medicaid Fraud Division Hotline: 888-937-2835/ <https://www.nj.gov/comptroller/divisions/medicaid/complaint.html>

NJ Insurance Fraud Prosecutor Hotline: 877-55-FRAUD/ <https://njinsurancefraud2.org/#report> as alternative methods for reporting fraud.