

Arizona

Arizona State False Claims Laws

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Arizona. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Arizona false claims laws and regulations impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Arizona laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Arizona's Medicaid program for services or goods not provided;
- Billing Arizona's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Arizona's Medicaid program for services that are medically unnecessary or that fail to meet professionally recognized standards for health care;
- Characterizing non-covered services or costs in a way that secures reimbursement from Arizona's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of these Arizona laws may result in a civil penalty up to \$2,000 per false claim and two times the amount of the wrongful payment, plus the state's costs to pursue reimbursement, as well as suspension or termination from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes **punishable** by imprisonment for up to one and a half years, a fine of not more than \$150,000 and/or a restitution lien in an amount to be determined by the court.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Arizona law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private

citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to Federal law and Society policy, various Arizona laws, including Arizona's public and private sector whistleblower laws, prohibit public and private employers from retaliating against any employee who discloses, in good faith, a violation of the Arizona Constitution or state law to their supervisor or a state agency. Arizona's anti-retaliation laws may also provide for certain monetary awards and equitable relief to the prevailing plaintiff which may include compensation for lost wages and reinstatement to a former position.

The Arizona laws, unlike the other laws, may require an employee who feels compelled to resign because of intolerable working condition caused by an employer's retaliatory conduct to report the intolerable working condition, in writing, to a representative of the employer in order to preserve his/her right to bring a wrongful discharge claim. The purpose of this particular requirement is to give the employer a reasonable opportunity to correct the wrongful activity, policy or practice that has created the intolerable working condition. This notice requirement may not apply in the event of outrageous conduct by the employer such as sexual assault, threats of violence directed at the employee, or a continuous pattern of discriminatory harassment.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Society's Code of Ethics or regulatory violation, or (2) refused to violate The Society's Code of Ethics or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. For additional guidance, please see the "Fair Treatment Policy" section of the Employee Handbook and section IV "Reporting Compliance Concerns" of The Society's Compliance Program Handbook.

Copies of Arizona Laws

The Arizona laws summarized above include: (1) False claims laws and civil penalties, Ariz. Rev. Stat. Ann. §§ 36-2918 and 36-2957; (2) Criminal fraud, Ariz. Rev. Stat. Ann. § 13-2311 and (3) Whistleblower laws, Ariz. Rev. Stat. Ann. §§ 38-531 to 38-532 (public employees), and Ariz. Rev. Stat. Ann. §§ 23-1501 to 23-1502 (public and private employees). If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142.