

West Virginia

West Virginia False Claims Laws

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in West Virginia. 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, West Virginia's false claims laws and regulations impose liability on persons or companies that make or cause to be made false, fraudulent or fictitious claims to the government for payment, or who attempt to obtain payment of a false or fraudulent claim. These West Virginia laws apply to Medicaid reimbursement and prohibit, among other things:

- Participating in kickbacks, rebates or bribes;
- Submitting, making or causing to be made a false, fraudulent or fictitious claim to the West Virginia Department of Welfare;
- Entering into a conspiracy to obtain payment of a false, fraudulent or fictitious claim; and
- Making any false statement or concealing any material fact, or engaging in any other fraudulent scheme to obtain payments or to obtain a greater amount of payment than otherwise entitled.

Civil and Criminal Penalties for False Claims or Statements

A violation of these West Virginia laws may result in a civil penalty equal to three times the payment amount, plus reasonable attorney fees and other costs of litigation. In addition violations of the Medicaid fraud and abuse laws are considered a felony, punishable by one to ten years of jail time and/or a fine of up to \$10,000.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, West Virginia law allows civil lawsuits to recover monetary damages to be filed only by the West Virginia Department of Welfare via the state Attorney General 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 West Virginia laws prohibit public employers and certain private employers from retaliating, discriminating or harassing employees because of their good faith disclosure of information about a violation of a law, or a violation that poses a risk to public or patient health, safety or welfare, or because of an employee's refusal to assist an employer in an activity that the employee reasonably believes is in violation of a law, such as West Virginia's Medicaid fraud and abuse laws. The West Virginia Whistle-Blower law also prohibits employers (public or private) from discriminating against, threatening to discharge or discharging any employee who in good faith reports or is about to report an instance of wrongdoing or waste. These laws provide for civil remedies which may include reinstatement, back-pay, monetary awards for actual damages and the costs of litigation. The Whistle-Blower Law also imposes a civil fine of up to \$500 on any person acting as or on behalf of an employer who violates this law.

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 West Virginia Laws

The West Virginia laws summarized above include: (1) Bribery, false claims, civil and criminal penalties law, W. Va. Code §§ 9-7-1 to 9-7-6; and (2) Whistle-Blower Law, W.Va. Code §§ 6C-1-1 to 6C-1-8. If you have questions about any of these requirements, you may contact The Society’s Compliance Solutions Hotline at 1-800-631-6142.