



POLICY # COMP-KC-009	Revision: 17.0	Page 1 of 3
TITLE: False Claims Act and Detecting Fraud, Waste and Abuse		
Department: Compliance (Team Quest)	Effective date: 11/1/2019	
<p><i>Teammates must promptly report all potential violations of DaVita's Code of Conduct, Compliance Policies and Procedures and/or applicable laws or regulations. Reports should be made to the Compliance Department (Team Quest), or the Compliance Hotline (1-888-458-5848 or <a href="http://DaVitaComplianceHotline.com">DaVitaComplianceHotline.com</a>). In accordance with DaVita's Non-Retaliation policy, DaVita will not tolerate any form of retaliation against anyone who files a compliance report in good faith. Questions regarding any Compliance Policy may be directed to Team Quest via the QUESTionLine at <a href="http://QUESTionLine.ethicspoint.com">QUESTionLine.ethicspoint.com</a>.</i></p>		

**1. PURPOSE**

The purpose of this policy is to set forth, along with DaVita's Code of Conduct and other compliance policies and procedures, DaVita's commitment to comply with and educate teammates, contractors and agents regarding the federal False Claims Act (FCA) and similar federal and state laws (including certain requirements set forth in the Deficit Reduction Act of 2005).

**2. SCOPE**

This policy applies to DaVita Kidney Care, including DaVita's domestic dialysis business and DaVita's Strategic Business Initiatives (SBIs).

**3. DEFINITIONS**

Term	Definition
Compliance-Related Violation	Any act, conduct, event or situation that violates or leads to a violation of DaVita's Code of Conduct, DaVita's compliance policies and procedures or other compliance-related directives, applicable laws and regulations, including those that apply to state and federal health care programs.
DaVita	DaVita Kidney Care, including DaVita's domestic dialysis business and DaVita's SBIs, as well as DaVita's international operations.
DaVita Kidney Care	The domestic kidney care division of DaVita Inc., which includes DaVita's domestic dialysis business and DaVita's SBIs, as well as any other subsidiaries and affiliated entities.
Deficit Reduction Act of 2005 (DRA)	A federal law containing many provisions reforming Medicare and Medicaid, a number of which were enacted specifically to reduce Medicaid fraud, waste and abuse. For example, under Section 6032 of the DRA, every entity that receives at least five (5) million dollars in Medicaid payments annually must establish, by January 1, 2007, written policies for all employees of the entity (including management), and for all employees of any contractor or agent of the entity, that provide detailed information about the False Claims Act and similar federal and state laws; the entity's policies and procedures for detecting and preventing fraud, waste and abuse; and whistleblower protections under applicable federal and state fraud and abuse laws.

Term	Definition
The False Claims Act (FCA)	A federal law that permits the government or whistleblowers to bring civil actions when any individual or entity (including Health Care Providers) knowingly submits false or fraudulent claims for payment from U.S. government funds (including Medicare and Medicaid), or engages in certain other types of fraud involving federal funds.
The Federal Program Fraud Civil Remedies Act of 1986 (PFCRA)	A federal law that allows the government to impose civil penalties against any person who makes, presents or submits (or causes to be made, presented or submitted) false, fictitious or fraudulent claims, or written statements to designated federal agencies, including the U.S. Department of Health and Human Services.
Fraud, Waste and Abuse	<p>Fraud is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.</p> <p>Waste is the overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.</p> <p>Abuse includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare Program, improper payment, payment of services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud, because the distinction between "fraud" and "abuse" depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors.</p>
Good Faith	Truthful, and without malice or ill intent. A report of a potential Compliance-Related Violation must be based on a reasonable belief that a potential violation of DaVita's Code of Conduct, DaVita's compliance policies or procedures or other compliance related directives, and/or applicable laws and regulations (including those that apply to federal health care programs) has occurred or might occur.
Guest Teammate	Any temporary worker, agency employee or contract employee who temporarily works on behalf of DaVita.
Strategic Business Initiatives (SBIs)	SBIs include DaVita Clinical Research, DaVita Labs, DaVita Physician Solutions, Lifeline Vascular Access, Nephrology Care Alliance, Nephrology Practice Solutions, VillageHealth DM, LLC d/b/a DaVita Integrated Kidney Care and Vively Health.

#### 4. POLICY

**4.1.** DaVita will educate all teammates, Guest Teammates, Medical Directors, Joint Venture Partners, select vendors and other third parties as required by contractual obligations on the prevention and detection of Fraud, Waste and Abuse via policies and procedures and training, including information regarding the False Claims Act (FCA).

**4.1.1.** DaVita teammates, Guest Teammates, Medical Directors, Joint Venture Partners, select vendors and other third parties as required by contractual obligations must familiarize

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themselves with this policy and the addendum policy, *Summary of Federal False Claims Act and Analogous State Laws, and other policies and procedures that DaVita has established for preventing and detecting Fraud, Waste and Abuse.*

- The addendum policy, Summary of Federal False Claims Act and Analogous State Laws, contains more information with respect to the FCA, the Federal Program Fraud Civil Remedies Act of 1986 (PFCRA) and similar state laws, including a description of whistleblower protections.
  - All compliance policies can be found on Team Quest's intranet site on VillageWeb. Vendor related policies and information can be found at <https://www.davita.com/about/vendors> or may be provided upon request.
- 4.2.** DaVita's billing processes and activities are to be performed in a manner that is consistent with Medicare, Medicaid, and other payor regulations and requirements, and in accordance with DaVita's documentation and billing policies and procedures.
- 4.3.** DaVita shall maintain internal systems and controls to monitor its documentation and billing practices and procedures on an ongoing basis to ensure compliance with the FCA, the PFCRA and similar state laws.
- 4.4.** No DaVita teammates, Guest Teammates, Medical Directors, Joint Venture Partners select vendors and other third parties as required by contractual obligations have the authority to direct, participate in, approve or allow any violation of the FCA, the PFCRA or similar state laws.
- 4.5.** Any DaVita teammates, Guest Teammates, Medical Directors, Joint Venture Partners select vendors and other third parties as required by contractual obligations who know or reasonably believe that DaVita (including any DaVita teammates, Guest Teammates, Medical Directors, Joint Venture Partners select vendors and other third parties as required by contractual obligations may be involved in any activity prohibited by the FCA, the PFCRA or similar state laws shall immediately report such belief using established DaVita reporting procedures. Reports can be made to the Compliance Hotline (1-888-458-5848 or [DaVitaComplianceHotline.com](mailto:DaVitaComplianceHotline.com)), DaVita senior level management, a DaVita manager, Team Quest or the Justice League of DaVita, or.
- 4.6.** DaVita prohibits retaliation against anyone for taking action under the FCA or state equivalents for reporting, in Good Faith, any potential Compliance-Related Violation.
- 4.7.** Any DaVita teammate who performs DaVita services at a non-DaVita entity's location (e.g., acute services at a hospital), also must adopt and abide by the policies regarding the FCA, PFCRA and/or similar state laws, governing that non-DaVita entity).
- 4.8.** Any Deficit Reduction Act of 2005 (DRA)/FCA related communications or inquiries should be forwarded immediately to Team Quest via email at [DRA@davita.com](mailto:DRA@davita.com).