

Connecticut False Claims Act – Overview

* Connecticut False Claims Act ("CT FCA") - Connecticut General Statutes § 4-274 through § 4-289.

- Previously C.G.S. § 17b-301, *et seq.*
- In June 2014, the CT FCA was significantly expanded to cover violations related to other agencies, including DCF.

Relevant Sections:

- C.G.S. § 4-274 (Definitions)
- C.G.S. § 4-275 (Prohibited Acts)
- C.G.S. § 4-276 (AG Investigation / Info exempt from disclosure)

C.G.S. § 4-274 (Definitions) – Notes

“Knowing” or “Knowingly” - C.G.S. § 4-274(1)

- An individual doesn’t need to have actual knowledge that a violation is being or has been committed. Rather, an act is also done “knowingly” if the individual:
 1. Acts in deliberate ignorance of the truth or falsity of the information; or
 2. Acts in reckless disregard to the truth or falsity, regardless of whether the person intends to defraud.

“Claim” - C.G.S. § 4-274(2)

- Any request for money or property that is:
 1. Made to an employee or agent of the state; or
 2. Made to a contractor, grantee or other recipient if the money is to be used to advance a state interest / program and (a) the state provides some of the money requested; or (b) the state will reimburse the contractor / grantee / recipient for a portions of the money or property requested.

“Person” - C.G.S. § 4-274(3)

- Doesn’t simply mean a natural person (individual), but also includes businesses, trusts, and other legal entities.

“Material” - C.G.S. § 4-274(6)

- Having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
- Thus, the violation need not actually cause payment to be made. Rather, it is enough if it could have caused payment to be made.

“State-administered health or human services program” - C.G.S. § 4-274(7)

- Includes DCF.

C.G.S. § 4-275 (Prohibited Acts)

C.G.S. § 4-275(a)(1)

- Knowingly present, or cause to be presented, a false/fraudulent claim for payment.

C.G.S. § 4-275(a)(2)

- Knowingly make, use or cause to be made or used, a false/fraudulent statement that is material to a false/fraudulent claim.

C.G.S. § 4-275(a)(3)

- Conspire to commit a violation of any provision under C.G.S. § 4-275.

C.G.S. § 4-275(a)(4)

- Knowingly deliver less money / property to an individual than he or she is entitled to receive under a DCF program.
- This applies not only to DCF employees, but also to any contractor, grantee or other individual possessing such money / property to be dispersed pursuant to a DCF program.

C.G.S. § 4-275(a)(5)

- Intending to defraud the state, making or delivering a document certifying receipt of property used, without knowing whether the information on the document is true.

C.G.S. § 4-275(a)(6)

- Knowingly buy or receive public property from a state employee who is not legally entitled to sell or give that public property.

C.G.S. § 4-275(a)(7)

- Knowingly make, use, or caused to be made or used, a false record or statement that is material to an obligation to pay the state under a DCF program.

C.G.S. § 4-275(a)(8)

- Knowingly conceal or knowingly & improperly avoid or decrease an obligation to pay money / property to the state under a DCF program.

C.G.S. § 4-276 (AG Investigation Authority / Info exempt from disclosure)

- C.G.S. § 4-276 gives the CT Attorney General's Office ("AGO") the authority to investigate potential violations of C.G.S. § 4-275(a).
- Any information DCF (or any other entity) provides to the AGO pursuant to such an investigation is exempt from disclosure under C.G.S. § 1-210 (i.e., the information is exempt from be disclosed via a FIOA request).

Liability for Violating CT False Claims Act

C.G.S. § 4-275(b) provides that:

Any person who violates the provisions of subsection (a) of this section shall be liable to the state for: (1) A civil penalty of not less than five thousand five hundred dollars or more than eleven thousand dollars, or as adjusted from time to time by the federal Civil Penalties Inflation Adjustment Act of 1990, 28 USC 2461, (2) three times the amount of damages that the state sustains because of the act of that person, and (3) the costs of investigation and prosecution of such violation. Liability under this section shall be joint and several for any violation of this section committed by two or more persons.

What To Look For – Potential CT False Claims Act Violations

1. Double billing.
 - When a provider provides only one service, but bills twice for that same service.
2. Billing for services not being provided.
 - Besides the obvious, reds flags can include: (a) billing excessive hours in a 24 hour period; and (b) billing for an absent patient.
3. False information (or omitted information) on a provider application, contract, grant, or any other document that would allow an individual to receive money / property from a state program.
4. False credentials/billing for services rendered by unlicensed individuals.
 - Example: A therapist allows an unlicensed person to perform counseling services, and then seeks payment that would have been allowed if the therapist had performed the counseling.
5. Upcoding.
 - A provider submits payment for a service that overstates the service performed.
 - Example: A counselor seeks payment for a detailed and comprehensive session when, in reality, brief (and less expensive) session was actually performed.
6. Unbundling.
 - Billing separate services—which are usually billed together—in order to increase the total payment to the provider.
 - Example: A lab performs 3 tests that are supposed to be “bundled” (billed together) for a total of \$75, but instead seeks payment for each of the tests separately, for a total of \$100.
7. Billing for excessive and/or unnecessary services.

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