

Example of essay on the federal anti- kickback statute

[Law](#), [Criminal Justice](#)



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Introduction

There are a number of policies in place for pharmaceutical and medical device companies that require every employee to act in accordance with all appropriate laws and regulations devised at both state and federal levels. It is important to fully comply with these policies in all aspects of business, including advertising, marketing, selling, contracting, development, research, etc. The Federal Anti-Kickback Statute and Federal False Claims Act are two major governmental laws that are regulated in the United States of America. There are many states in USA that have enacted related laws in order to penalize the lawbreakers.

The Federal Anti-Kickback Statute is devised for the protection of patients and health care programs (federal) from deception and exploitation. It does so by inhibiting money usage for influencing decisions related to health care. The law clearly states that a person who deliberately and knowingly accepts

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or presents any sort of compensation in whatever manner proposed to manipulate the medical appointment of Medicaid and Medicare services can be taken under arrest for a criminal act. The violators of Anti-Kickback laws are liable to be punished by equal to 5 years' imprisonment. In some cases, the violators are legally responsible to pay up to \$25, 000 as additional criminal fines. On the other hand, penalties for manipulating administrative civil money may reach up to \$50, 000. In addition, administrative proceedings may be commenced by the Department of Health and Human Services' Office of Inspector General to ban any convicted person found to violate Anti-Kickback laws from taking part in health care programs organized at federal and state levels. Moreover, the Department of Health and Human Services' Office of Inspector General also enjoys to authority to inflict civil pecuniary fines for scams, bribes, and additional illegal activities (Wolper 111).

Federal False Claims Act

The Federal False Claims Act, also renowned as Lincoln Law, is extensively considered as the most effectual tool to combat hoaxes and deceptions against the federal government. This federal law allows US citizens that have no governmental affiliation to file lawful actions in opposition to federal service providers for claiming fraudulent acts against the US government. The action of filing such claims is called whistle blowing, whereas the person who possesses fraud evidence is known as relator or whistle blower. It is important to mention that tax fraud is the only deceptive act not permissible for legal action. The whistle blower “ is authorized to file

a case in federal court and sue, on behalf of the government, persons engaged in the fraud and to share in any money the government may recover” (Ekstrand 1). The Federal False Claims Act violators are penalized substantively. For every violation, they are liable to pay upto \$10, 000 as civil fine. Moreover, they are also required to treble the damages’ amount sustained by the government. In addition, they are also liable to pay three times of the governmental cost spent to execute civil action for retrieving damages or penalty (Alibekova 33). Virginia Fraud against Taxpayers Act Virginia Fraud against Taxpayers Act obliges legal responsibility on people who present counterfeit or deceitful claims on purpose for disbursement with state finances, steal land owned by state, or dishonestly shun compulsory requirements to reimburse the state. Any person defending such a case may be fined to pay thrice the real damage to the state. In addition, the defendant may be given the penalty to pay \$5, 500-\$11, 000 for every violated law. In case of interference by Virginia Attorney General, an applicant who is successful in filing a victorious claim may get about fifteen to twenty-five percent of any state recovery. On the other hand, if the private plaintiff is successful in prosecuting the case by making personal efforts, he may be awarded between twenty-five to thirty percent of the recovery. However, if the plaintiff is found to plan or initiate the fraudulent activities, the award’s value may be reduced by the court. Same court action is applicable if the plaintiff is found to base the information already exposed by media or disclosed during public hearings.

Conclusion

Fraud and abuse in health care programs is a grave problem in the contemporary American society. Even though there is no specific determination of health care fraud and the greater part of health care providers is truthful and sober, a marginal number of providers with intentions to abuse the system can charge billions of dollars to the taxpayers. In addition, these ill-intentioned people may put the health and welfare of beneficiaries at risk. As a consequence, the damages and risks of fraudulent actions impact majority of people under the service of health care programs. Moreover, the budgets of federal and state governments suffer an increased strain. This is the reason there are several statutes aimed towards combating fraud and abuse in health care programs. The employment of such statutes has made it possible for both federal and state governments in the United States of America to recover and get back billions of dollars stolen through fraudulent activities.

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