1) Anti-Kickback/Fee-Splitting

Pennsylvania Crimes and Offenses
18 Pa. Cons. Stat. § 4117 (b)—Insurance Fraud
(2) With respect to an insurance benefit or claim covered by this section, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider's service to or employment by a patient or as a reward for having made a recommendation resulting in the provider's service to or employment by a patient; except that the provider may pay the reasonable cost of advertising or written communication as permitted by rules of professional conduct. Upon a conviction of an offense provided for by this paragraph, the prosecutor shall certify such conviction to the appropriate licensing board in the Pennsylvania Department of State that shall suspend or revoke the health care provider's license.

(3) A lawyer or health care provider may not compensate or give anything of value to a person for providing names, addresses, telephone numbers, or other identifying information of individuals seeking or receiving medical or rehabilitative care for accident, sickness, or disease, except to the extent a referral and receipt of compensation is permitted under applicable professional rules of conduct. A person may not knowingly transmit such referral information to a lawyer or health care professional for the purpose of receiving compensation or anything of value. Attempts to circumvent this paragraph through use of any other person, including, but not limited to, employees, agents, or servants, shall also be prohibited.
Pennsylvania Clinical Laboratory Act

35 Pa. Stat. § 2163.1—Unlawful Conduct

(b) It shall be unlawful for a person or clinical laboratory, regardless of whether the person or clinical laboratory is located in this Commonwealth or maintains a permit issued by the department to:

(1) Pay or receive a commission, bonus, kickback, or rebate or engage in a split-fee arrangement in any form with a health care provider or health care practitioner, either directly or indirectly, for patients or their specimens referred to any clinical laboratory operating within this Commonwealth or testing a specimen accepted or collected within this Commonwealth;

(2) Lease or rent space, shelves, or equipment or other services within a health care provider's office or health care practitioner's office, including the leasing or renting of space within a part of a health care provider's or health care practitioner's office, for the purpose of establishing a collection station;

(3) Directly or indirectly provide through employees, contractors, an independent staffing company, lease agreement, or otherwise, personnel to perform functions or duties in a health care provider's or health care practitioner's office, for any purpose regardless of whether fair market value is offered or given, including for the collection or handling of specimens, unless the clinical laboratory and the health care provider's office or health care practitioner's office are wholly owned and operated by the same entity; and

(4) Permit the placement of paid or unpaid personnel to perform services, including, but not limited to, specimen collection, processing the specimen, or packaging or handling services or genetic counseling, in a health care provider's or health care practitioner's office regardless of whether fair market value is offered or given.

(c) This section does not preclude a clinical laboratory from owning or investing in a building in which space is leased or rented for adequate and fair consideration to health care providers or health care practitioners.

28 Pa. Code § 5.71—Restrictions on Solicitation

No employee[sic] or representative of a laboratory, either personally or through an agent, may solicit referral of specimens to his or any other laboratory in a manner which offers or implies an offer of rebates to persons submitting specimens or other fee-splitting [sic] inducements. This applies to contents of fee schedules, billing methods, or personal solicitation. No person involved in the submission of specimens may receive payment or other inducement by the laboratory or its representative.

ARTICLE XXIII-a of The Administrative Code of 1929: Powers and Duties of the Department of Drug and Alcohol Programs

71 P.S. § 613.13—Regulations for Licensure or Certification of Drug and Alcohol Recovery Houses

The department shall promulgate final-omitted regulations for the licensure or certification of drug and alcohol recovery houses that receive funds or referrals from the department, or a Federal, State or other county agency, to ensure that a drug
and alcohol recovery house provides a safe environment for residents. The regulations shall include, but not be limited to, the following:

(4) A policy that no drug and alcohol recovery house owner, employee, house officer or individual related to a drug and alcohol recovery house owner, employee or house officer shall directly or indirectly solicit or accept a commission, fee or anything of monetary or material value from residents, other related individuals, third party entities or referral sources, beyond specified rent established in writing at the time of residency.

Pennsylvania Medical Marijuana Act
28 Pa. Code § 1181.31—Practitioner Prohibitions
(a) A practitioner may not accept, solicit or offer any form of remuneration from or to any individual, prospective patient, patient, prospective caregiver, caregiver or medical marijuana organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to a patient consultation of the prospective patient to determine if the prospective patient should be issued a patient certification to use medical marijuana.
(b) A practitioner may not hold a direct or economic interest in a medical marijuana organization.
(c) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical marijuana.
(d) A practitioner may not issue a patient certification for the practitioner's own use or for the use of a family or household member.
(e) A practitioner may not be a designated caregiver for a patient that has been issued a patient certification by that practitioner.
(f) A practitioner may not receive or provide medical marijuana product samples.

Pennsylvania Medical Assistance (MA) Manual
55 Pa. Code § 1101.51—Ongoing Responsibilities of Providers
(c) Interrelationship of Providers. Providers are prohibited from making the following arrangements with other providers:
(1) The referral of MA recipients directly or indirectly to other practitioners or providers for financial consideration or the solicitation of MA recipients from other providers;
(2) The offering of, or paying, or the acceptance of remuneration to or from other providers for the referral of MA recipients for services or supplies under the MA program;
(3) A participating provider may not lease or rent space, shelves, or equipment within a provider's office to another provider or allowing the placement of paid or unpaid staff of another provider in a provider's office. This does not preclude a provider from owning or investing in a building in which space is leased for adequate and fair consideration to other providers nor does it prohibit an ophthalmologist or optometrist from providing space to an optician in his office;
(4) The solicitation or receipt or offer of a kickback, payment, gift, bribe or rebate for purchasing, leasing, ordering or arranging for or recommending purchasing,
leasing, ordering or arranging for or recommending purchasing, leasing or ordering a good, facility, service or item for which payment is made under MA. This does not preclude discounts or other reductions in charges by a provider to a practitioner for services, that is, laboratory and x-ray, so long as the price is properly disclosed and appropriately reflected in the costs claimed or charges made by a practitioner; and

(5) A participating practitioner or professional corporation may not refer an MA recipient to an independent laboratory, pharmacy, radiology or other ancillary medical service in which the practitioner or professional corporation has an ownership interest.

55 Pa. Code § 1101.75—Provider Prohibited Acts
(a) An enrolled provider may not, either directly or indirectly, do any of the following acts:
   (3) Solicit, receive, offer, or pay a remuneration, including a kickback, bribe, or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with furnishing of services or items or referral of a recipient for services and items.
(b) A provider or person who commits a prohibited act specified in subsection (a), except paragraph (11), is subject to penalties specified in §§ 1101.76, 1101.77, and 1101.83 (relating to Criminal Penalties, Enforcement Actions by the Department, and Restitution and Repayment).

55 Pa. Code § 1101.75a—Business Arrangements Between Nursing Facilities and Pharmacy Providers—Statement of Policy
(a) General. The following listings, which are not all-inclusive, set forth examples of items and practices that would be considered accepted or improper under the Program.
(b) Accepted Practices. Ancillary enhancements that are solely confined to the practice of pharmacy as defined in section 2(11) of the Pharmacy Act (63 P. S. § 390-2(11)) and remain in the control and ownership of the pharmacy would be considered an accepted practice under section 1407(a)(2) of the Public Welfare Code (62 P. S. § 1407(a)(2)) and § 1101.75(a)(3) (relating to Provider Prohibited Acts).
(c) Examples of Accepted Practices. Examples of accepted practices include:
   (1) Medication carts, whether the pharmacy uses unit dose or standard prescription containers; and
   (2) Treatment and medication forms that are already part of the pharmacy’s software and may be supplied to the nursing facility. The nursing facility shall pay for the cost of paper.
(d) Examples of Improper Practices. Examples of improper practices include:
   (1) Cash or equipment in which ownership or control is changed;
   (2) Funding for parties. This includes money, food, or decorations;
   (3) Vacation trips and professional seminars; and
   (4) Free or below market value items:
(i) Pharmacy consultations which include reviewing charts, conducting education sessions, and observing nurses administering medication. The market value of a pharmacy consultant's fee shall be at least the average hourly wage of a pharmacist in that particular geographic area;

(ii) Drugs—legend or over-the-counter (OTCs);

(iii) Intravenous drugs, tubing, or related items;

(iv) Drugs for emergency carts;

(v) Facsimile machines. This is not to preclude the use of facsimile machines. The State Board of Pharmacy will continue to regulate the proper use of facsimile machines. The prohibition includes a pharmacy placing by loan, gift, or rental a facsimile machine in a nursing facility for the purpose of transmitting MA prescriptions;

(vi) Treatment or external medication carts. This does not include medication carts used exclusively to store drugs, whether dispensed in a container or unit dose;

(vii) Computers and software;

(viii) Medical or pharmacy books and journals;

(ix) Prescriptions for nursing facility staff;

(x) Administrative functions which include billing, payroll, and nursing facility report preparation. This does not include reports regarding drug usage; and

(xi) Staff to perform nursing facility functions outside the practice of pharmacy.

(e) For the purpose of subsection (d)(4)(ii)–(iv), the Department will accept a volume discount as market value if it remains equal to or above the actual acquisition cost of the product.

55 Pa. Code § 1243.42—Ongoing Responsibilities of Providers
In addition to the ongoing responsibilities established in § 1101.51(a)–(e) (relating to Ongoing Responsibilities of Providers), laboratories shall, as a condition of participation, comply with the following requirements:

(3) Laboratories shall avoid locked-in referral arrangements between themselves and a prescriber.

Pharmaceutical Assistance Contract for the Elderly
(a) It is unlawful for a person to submit a false or fraudulent claim or application under the Act; to aid or abet another in the submission of a false or fraudulent claim or application; to receive benefits or reimbursement under a private, state, or federal program for prescription assistance and claim, or receive duplicative benefits under this chapter; to solicit, receive, offer, or pay a kickback, bribe, or rebate, in cash or in kind, from or to a person in connection with the furnishing of services under the act; or to otherwise violate the act. A person who commits a prohibited act shall be charged with a criminal offense under 18 Pa.C.S. (relating to the Crimes Code).

(b) A person who is found guilty of a criminal offense under the act is subject to repay three times the value of any material gain received as a result of the offense.
6 Pa. Code § 22.82—False or Fraudulent Claims by Providers
An enrolled provider submits a false or fraudulent claim if the provider directly or indirectly commits one or more of the following acts:

(4) Solicits, receives, offers, or pays remuneration, including a kickback, bribe, or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with the dispensing of prescription drugs or referral of claimants for prescription drugs.

(a) It is unlawful for a person to submit a false or fraudulent claim or application under the act; to aid or abet another in the submission of a false or fraudulent claim or application; to receive benefits or reimbursement under a private, state, or federal program for prescription assistance and claim, or receive duplicative benefits under this chapter; to solicit, receive, offer, or pay a kickback, bribe, or rebate, in cash or in kind, from or to a person in connection with the furnishing of services under the act; or to otherwise violate a provision of the act. A person who commits a prohibited act shall be charged with a criminal offense under 18 Pa.C.S. (relating to the Crimes Code).
(b) A person who is found guilty of a criminal offense under the act is subject to repay three times the value of any material gain received as a result of the offense.

2) PROHIBITIONS ON SELF-REFERRAL

Pennsylvania Workers’ Compensation Act
77 Pa. Stat. § 531 (3)—Surgical and Medical Services
(iii) Notwithstanding any other provision of law, it is unlawful for a provider to refer a person for laboratory, physical therapy, rehabilitation, chiropractic, radiation oncology, psychometric, home infusion therapy, or diagnostic imaging, goods, or services pursuant to this section if the provider has a financial interest with the person or in the entity that receives the referral. It is unlawful for a provider to enter into an arrangement or scheme such as a cross-referral arrangement, which the provider knows or should know has a principal purpose of assuring referrals by the provider to a particular entity which, if the provider directly made referrals to such entity, would be in violation of this section. No claim for payment shall be presented by an entity to any individual, third-party payer, or other entity for a service furnished pursuant to a referral prohibited under this section.

77 Pa. Stat. § 1039.3—Compensation Paid by Lawyers or Health Care Providers to Secure Employment
(b) With respect to a workers’ compensation insurance benefit or claim, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider’s service to or employment by a patient or as a reward for having made a recommendation resulting in the provider’s service to or employment by a patient, except that the provider may pay the reasonable cost of advertising or
written communication as permitted by rules of professional conduct. Upon a conviction of an offense under this subsection, the prosecutor shall certify the conviction to the appropriate licensing board in the Department of State which shall suspend or revoke the health care provider's license.

(c) A lawyer or health care provider may not compensate or give anything of value to a person for providing names, addresses, telephone numbers, or other identifying information of individuals seeking or receiving medical or rehabilitative care for accident, sickness, or disease, except to the extent a referral and receipt of compensation is permitted under applicable professional rules of conduct. A person may not knowingly transmit such referral information to a lawyer or health care professional for the purpose of receiving compensation or anything of value. Attempts to circumvent this subsection through use of any other person, including, but not limited to, employe[e]s, [sic] agents, or servants, shall also be prohibited.

**Pennsylvania Health Care Cost Containment Act**


(a) General Rule—Any practitioner of the healing arts shall, prior to referral of a patient to any facility or entity engaged in providing health-related services, tests, pharmaceuticals, appliances, or devices, disclose to the patient any financial interest of the practitioner or ownership by the practitioner in the facility or entity. In making any referral, the practitioner of the healing arts may render any recommendations he considers appropriate, but shall advise the patient of his freedom of choice in the selection of a facility or entity.

**Workers’ Compensation Medical Cost Containment**

**34 Pa. Code § 127.301—Referral Standards**

(a) Under section 306(f.1)(3)(iii) of the act (77 P. S § 531(3)(iii)), a provider may not refer a person for certain treatment and services if the provider has a financial interest with the person or in the entity that receives the referral. A provider may not enter into an arrangement or scheme, such as a cross-referral arrangement, which the provider knows, or should know, has a principal purpose of assuring referrals by the provider to a particular entity which, if the provider directly made referrals to the entity, would be in violation of the act.

(b) No claim for payment may be presented by a person, provider, or entity for a service furnished under a referral prohibited under subsection (a).

(c) Referrals permitted under all present and future Safe Harbor Regulations promulgated under the Medicare and Medicaid Patient and Program Protection Act at 42 U.S.C.A. § 1320a-7b(1) and (2), published at 42 CFR 1001.952 (relating to Exceptions), and all present and future exceptions to the Stark amendments to the Medicare Act at 42 U.S.C.A. § 1395nn, and all present and future regulations promulgated thereunder are not prohibited referrals involving financial interest. An insurer may not deny payment to a health care provider involved in such transaction or referral.

(d) For purposes of section 306(f.1)(3)(iii) of the act, a CCO [Coordinated Care Organization] will be considered a single health care provider.
34 Pa. Code § 127.302—Resolution of Self-Referral Disputes by Bureau
(a) If an insurer determines that a bill has been submitted for treatment rendered in violation of the referral standards, the insurer is not liable to pay the bill. Within 30 days of receipt of the provider's bill and medical report, the insurer shall supply a written explanation of benefits, under § 127.209 (relating to Explanation of Benefits Paid), stating the basis for believing that the self-referral provision has been violated.
(b) A provider who has been denied payment of a bill under subsection (a) may file an application for fee review with the Bureau under § 127.251 (relating to Medical Fee Disputes—Review by the Bureau) An application for fee review filed under this subsection will be assigned to a hearing officer for a hearing and adjudication in accordance with the procedures set forth in §§ 127.259 and 127.260 (relating to Fee Review Hearing; and Fee Review Adjudications).
(c) The insurer shall have the burden of proving by a preponderance of the evidence that a violation of the self-referral provisions has occurred.

34 Pa. Code § 122.621—Referrals Within a CCO
(a) Neither a CCO nor any of its participating coordinated care providers is prohibited from referring an injured worker for a medical good or service specified in section 306(f.1)(3)(iii) of the act (77 P. S. § 531.1(3)(iii)) to another participating coordinated care provider within the CCO network, irrespective of whether the CCO or the referring participating coordinated care provider has a financial interest in the participating coordinated care provider to whom the referral is made.
(b) The CCO and its participating coordinated care providers shall provide to the injured worker a written disclosure of their financial interests, if any, in a provider to which referrals may be made.
(c) The CCO shall monitor the referrals to ensure quality, guard against overutilization, ensure that no referrals prohibited under section 306(f.1)(3)(iii) of the WC Act are made to nonparticipating coordinated care providers, and ensure that no referrals are made to persons other than the participating coordinated care providers within the network unless preapproved by the CCO.

3) FALSE CLAIMS

ARTICLE XIV of Human Services Code: Fraud and Abuse Control
(a) It shall be unlawful for any person to:
   (1) Knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under medical assistance, or to knowingly present for allowance or payment any claim or cost report for medically unnecessary services or merchandise under medical assistance, or to knowingly submit false information, for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise under medical assistance, or to knowingly submit false information for the purpose of obtaining
authorization for furnishing services or merchandise under medical assistance; and
(2) Solicit, or receive or to offer or pay any remuneration, including any kickback, bribe or rebate, directly or indirectly, in cash or in kind from or to any person in connection with the furnishing of services or merchandise for which payment may be in whole or in part under the medical assistance program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the medical assistance program.

62 Pa. Stat. § 1408—Other Prohibited Acts, Criminal Penalties, and Civil Remedies
(a) It shall be unlawful for any person to:
   (1) Knowingly or intentionally make or cause to be made a false statement or misrepresentation, or to willfully fail to disclose a material fact regarding eligibility, including, but not limited to, facts regarding income, resources, or potential third-party liability, for either themselves or any other individual, either prior to or at the time of or subsequent to the application for any medical assistance benefits or payments.

62 Pa. Stat. § 1418—Toll-Free DHS Fraud Tip Line
(c) The following provisions apply to posting information relating to the Toll-Free DHS Fraud Tip Line:
   (1) An owner, manager or provider who operates a business or medical facility in a public place who accepts food stamps or medical assistance as a form of payment for goods or services shall post a sign containing information regarding the Toll-Free DHS Fraud Tip Line.
   (2) Any other owner, manager or provider may post the sign.
   (3) An owner, manager or provider under paragraph (1) shall post at least one sign, no smaller than eight and one-half by eleven inches and no larger than one by two feet, in a conspicuous manner clearly visible to the public and employees [sic] inside the business or medical facility.
(d) The following provisions relate to enforcement:
   (1) A complaint regarding a possible violation of this section shall be made to the appropriate law enforcement agency or to the department.
   (2) Except as otherwise provided under paragraph (3), upon receipt of a complaint by the department, the following apply:
      (i) the department shall investigate the complaint and enforce this act; or
      (ii) if the business or medical facility is subject to licensure by the Commonwealth, the department shall refer the complaint to the appropriate licensing agency for investigation and enforcement of this act.
   (3) If the complaint is made to a law enforcement agency regarding a business, the agency shall investigate the complaint and enforce this act.
(e) It is a violation of this act to fail to post a sign as required under subsection (c).
(f) Any of the following shall be an affirmative defense to a prosecution or imposition of an administrative penalty under this act:
   (1) When the violation occurred, the actual control of the business or medical facility was not exercised by the owner, manager or provider, but by a lessee.
   (2) The owner, manager or provider made a good faith effort to post the sign.
   (3) The owner, manager or provider asserting the affirmative defense must do so in the form of a sworn affidavit setting forth the relevant information mentioned under paragraphs (1) and (2).

(g) If the department or a state licensing agency determines that:
   (1) A person has violated subsection (e), the person shall be issued a warning by the department or State licensing agency.
   (2) A person has violated subsection (e) within one year of receiving a warning under paragraph (1), the person shall be subject to a penalty not to exceed two hundred fifty dollars ($250).
   (3) A person has violated subsection (e) within one year of receiving a penalty under paragraph (2), the person shall be subject to a penalty not to exceed five hundred dollars ($500).

(h) The provisions of subsection (g) shall be subject to 2 Pa.C.S. (relating to Administrative Law and Procedure).

(i) The penalties collected under subsection (g) shall be retained by the department or the state licensing agency initiating the enforcement action.

Pennsylvania Medical Assistance Manual
55 Pa. Code § 1101.73—Provider Misutilization and Abuse
If the Department's routine utilization review procedures indicate that a provider has been billing for services that are inconsistent with MA regulations, unnecessary, inappropriate to patients' health needs, or contrary to customary standards of practice, the provider will be notified in writing that payment on all of his invoices will be delayed or suspended for a period not to exceed 120 days pending a review of his billing and service patterns. Some providers may have their invoices reviewed prior to payment. In addition, the provider's medical or fiscal records, or both, may be reviewed and he may be asked to appear before one of the Department's peer review committees to explain his billing practices. Written notice of the Department's action to delay payment will also be sent to the PSRO, where applicable.

55 Pa. Code § 1101.74—Provider Fraud
If, after investigation, the Department determines that a provider has submitted or has caused to be submitted claims for payments which the provider is not otherwise entitled to receive, the Department will, in addition to the administrative action described in §§ 1101.82—1101.84 (relating to Administrative Procedures), refer the case record to the Medicaid Fraud Control Unit of the Department of Justice for further investigation and possible referral for prosecution under federal, state, and local laws. Providers who are convicted by a federal court of willfully defrauding the Medicaid program are subject to a $25,000 fine or up to five years imprisonment or both.
55 Pa. Code § 1101.75—Provider Prohibited Acts
(a) An enrolled provider may not, either directly or indirectly, do any of the following acts:

1. Knowingly or intentionally present for allowance or payment a false or fraudulent claim or cost report for furnishing services or merchandise under MA, knowingly present for allowance or payment a claim or cost report for medically unnecessary services or merchandise under MA, or knowingly submit false information, for the purpose of obtaining greater compensation than that to which the provider is legally entitled for furnishing services or merchandise under MA;

2. Knowingly submit false information to obtain authorization to furnish services or items under MA;

3. Solicit, receive, offer, or pay a remuneration, including a kickback, bribe, or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with furnishing of services or items, or referral of a recipient for services and items;

4. Submit a duplicate claim for services or items for which the provider has already received or claimed reimbursement from a source;

5. Submit a claim for services or items which were not rendered by the provider or were not rendered to a recipient;

6. Submit a claim for services or items which includes costs or charges which are not related to the cost of the services or items;

7. Submit a claim or refer a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are not medically necessary;

8. Submit a claim which misrepresents the description of the services, supplies or equipment dispensed or provided, the date of service, the identity of the recipient or of the attending, prescribing, referring or actual provider;

9. Submit a claim for a service or item at a fee that is greater than the provider's charge to the general public;

10. Except in emergency situations, dispense, render or provide a service or item without a practitioner's written order and the consent of the recipient or submit a claim for a service or item which was dispensed or provided without the consent of the recipient;

11. Except in emergency situations, dispense, render or provide a service or item to a patient claiming to be a recipient without first making a reasonable effort to verify by a current Medical Services Eligibility card that the patient is an eligible recipient with no other medical resources;

12. Enter into an agreement, combination or conspiracy to obtain or aid another in obtaining payment from the Department for which the provider or other person is not entitled, that is, eligible;

13. Make a false statement in the application for enrollment or reenrollment in the program; and
(14) Commit a prohibited act specified in § 1102.81(a) (relating to Prohibited Acts of a Shared Health Facility and Providers Practicing in the Shared Health Facility).

(b) A provider or person who commits a prohibited act specified in subsection (a), except paragraph (11), is subject to the penalties specified in §§ 1101.76, 1101.77, and 1101.83 (relating to Criminal Penalties; Enforcement Actions by the Department; and Restitution and Repayment).

Pharmaceutical Assistance Contract for the Elderly
6 Pa. Code § 22.62—Conditions of Provider Participation
(j) Payments.
(1) Enrolled providers shall collect the required copayment and, if applicable, the generic differential, from each claimant for each prescription filled under the PACE [Program of All-inclusive Care for the Elderly] Program. For the purpose of reimbursement under the program, no provider claim which relates to services for which the full copayment and an applicable generic differential have not been collected may be considered an allowable claim. Failure to comply with this subsection constitutes a false or fraudulent claim under § 22.82 (relating to False or Fraudulent Claims by Providers).

(a) It is unlawful for a person to submit a false or fraudulent claim or application under the act; to aid or abet another in the submission of a false or fraudulent claim or application; to receive benefits or reimbursement under a private, state, or federal program for prescription assistance and claim or receive duplicative benefits under this chapter; to solicit, receive, offer, or pay a kickback, bribe, or rebate, in cash or in kind, from or to a person in connection with the furnishing of services under the act; or to otherwise violate the act. A person who commits a prohibited act shall be charged with a criminal offense under 18 Pa.C.S. (relating to the Crimes Code).

(b) A person who is found guilty of a criminal offense under the act is subject to repay three times the value of any material gain received as a result of the offense.

6 Pa. Code § 22.82—False or Fraudulent Claims by Providers
An enrolled provider submits a false or fraudulent claim if the provider directly or indirectly commits one or more of the following acts:

(1) Submits false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled for dispensing prescription drugs under PACE;

(2) Submits a claim for dispensing only part of a prescription amount which is less than the maximum limit of the program except when the provider can document that insufficient inventory prevented the dispensing of the program limit and that no additional dispensing fee or copayments were charged for dispensing the remainder of the prescription at a later time;

(3) Submits false information to obtain authorization to dispense prescription drugs under PACE;
(4) Solicits, receives, offers, or pays remuneration, including a kickback, bribe, or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with the dispensing of prescription drugs or referral of claimants for prescription drugs;

(5) Submits a duplicate claim for prescription drugs for which the provider has already received or claimed reimbursement from any source;

(6) Submits a claim for prescription drugs not dispensed by the provider at the provider's principal place of business or not dispensed to a claimant;

(7) Submits a claim for prescription drugs dispensed which are not documented in the prescribed manner. See 49 Pa. Code Chapters 16–18 (relating to State Board of Medicine—General Provisions; State Board of Medicine—Medical Doctors; and State Board of Medicine—Practitioners Other than Doctors) and 49 Pa. Code § 27.78 (relating to Standards of Practice);

(8) Submits a claim, order or prescription, for prescription drugs which are of little or no benefit to the claimant, are below accepted treatment standards or are not medically necessary, in the case of a dispensing physician who is a provider;

(9) Submits a claim which misrepresents the description of the prescription drugs dispensed, the date of service, the identity of the claimant, the identity of the prescriber or the identity of the actual provider;

(10) Submits a claim for a prescription drug dispensed under PACE at a cost that is greater than the provider's usual charge to the general public;

(11) Submits a claim for a prescription drug dispensed for which the provider has not collected from the claimant all due payments, including the required copayment and any applicable generic differential;

(12) Enters into an agreement, combination or conspiracy to obtain or aid another in obtaining from the Department payment to which the provider or other person is not entitled; and

(13) Submits a claim for prescription drugs dispensed to a claimant outside this Commonwealth.


(a) It is unlawful for a person to submit a false or fraudulent claim or application under the act; to aid or abet another in the submission of a false or fraudulent claim or application; to receive benefits or reimbursement under a private, state, or federal program for prescription assistance and claim, or receive duplicative benefits under this chapter; to solicit, receive, offer or pay a kickback, bribe or rebate, in case or in-kind, from or to a person in connection with the furnishing of services under the act; or to otherwise violate a provision of the act. A person who commits a prohibited act shall be charged with a criminal offense under 18 Pa.C.S. (relating to the Crimes Code).

(b) A person who is found guilty of a criminal offense under the act is subject to repay three times the value of any material gain received as a result of the offense.
4) WHISTLEBLOWER LAW

**43 Pa. Stat. § 1423—Protection of Employees**

(a) *Persons Not to Be Discharged.* No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste by a public body or an instance of waste by any other employer as defined in this act.

(b) *Discrimination Prohibited.* No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment because the employee is requested by an appropriate authority to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action.

(c) *Disclosure Prohibition.* An appropriate authority to which a violation of this act was reported may not disclose the identity of a whistleblower without the whistleblower’s consent unless disclosure is unavoidable in the investigation of the alleged violation.

**43 Pa. Stat. § 1428—Notice**

An employer shall post notices and use other appropriate means to notify employees and keep them informed of protections and obligations under this act.

5) HELPFUL LINKS

- Pennsylvania Department of Human Services: Health Care/Medical Assistance
- Pennsylvania Medicaid Fraud Control Units
- Pennsylvania Department of Labor & Industry: Workers’ Compensation & The Injured Worker