1) ANTI-KICKBACK

**D.C. Code Ann. § 3-1205.14**
Under District of Columbia law, health professional boards may impose a variety of disciplinary actions, including loss or suspension of licensure and/or civil fines, against a licensee who “[p]ays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient.”

**D.C. Code Ann. § 4-801 through § 4-805 (Medicaid Fraud Prevention Statute)**
Under District of Columbia law, any person (i.e., an “individual, firm, partnership, group, corporation, professional corporation or association, institution, agency, or other entity, public or private, that has been approved or seeks to be approved by the District of Columbia to provide medical assistance to recipients”) who commits one of the following offenses is guilty of a misdemeanor subject to a maximum penalty of $500 (for each individual offense) and/or up to one year in prison:

1. Soliciting, accepting, or agreeing to accept any remuneration for either (a) referring a Medicaid beneficiary for items or services payable under the D.C. Medicaid program (“D.C. Medicaid”) or (b) recommending the purchase, lease, or
order of any good, facility, service, or item for which payment may be made under D.C. Medicaid;
2. Conferring, offering, or agreeing to confer or offer any type of remuneration for the conduct described in (1) above; or
3. Soliciting, receiving, or attempting to solicit or receive anything of value as a precondition for admitting a patient to a health care facility, or as a condition to providing any item or service to a patient.

**2) PROHIBITIONS ON SELF-REFERRAL**
The District of Columbia does not currently have a self-referral statute similar to the federal Physician Self-Referral Statute (Stark Law).

**3) FALSE CLAIMS/FRAUD & ABUSE**

*General State False Claims Act*

**D.C. Code § 2-381.01 through 2-381.09** *(District of Columbia’s False Claims Act)*
The District of Columbia False Claims Act (the “D.C. FCA”) contains provisions similar to those found in the federal civil False Claims Act, as set forth at 31 U.S.C. § 3729 et seq. (“Federal FCA”), including treble damages and penalties ranging from $5,500 to $11,000 per false claim. Like the Federal FCA, the D.C. FCA extends to failure to refund overpayments. The D.C. FCA permits claims to be brought by *qui tam* relators for a portion of the proceeds, with procedures for filing actions under seal and government intervention, and provisions limiting publicly disclosed claims to original source.

*False Claims under the Medicaid Program*

**D.C. Code Ann. § 4-801 et seq.** *(Medicaid Fraud Prevention Statute)*
The Medicaid Fraud Prevention Statute prohibits any attempt, with intent to defraud, to obtain payment for items and services that the person knows or has reason to know were not provided as claimed, or attempting to obtain higher rate of payment than a person is entitled. In addition to the criminal penalties noted in the prior discussion of the Medicaid Fraud Prevention Statute, persons committing these offenses may also be subject to civil monetary penalties of $2,000 per item/service as well as an assessment of up to two times the amount claimed for each item or service.

*Loss of Licensure*

**D.C. Code Ann. § 3-1205.14**
Health professional boards may impose disciplinary actions, including loss or suspension of licensure and/or civil fines, against a licensee who “[w]illfully makes or files a false report or record in practice of a health occupation… [s]ubmits false statements to collect fees for which services are not provided or submits statements to collect fees for services which are not medically necessary…[or]commits fraud or makes false claims in connection with the practice of an occupation regulated by [the] health occupation boards] or relating to Medicaid, Medicare, or insurance…”
4) EXCLUSION

**D.C. Mun. Regs. tit. 29, §§ 1301 and 1399**
Under District of Columbia regulations, a Medicaid provider may be excluded from the D.C. Medicaid program and/or have its Medicaid program agreement terminated for (1) knowingly and willfully making or causing any false statement or misrepresentation of material fact in claiming or determining the right to Medicaid payment; (2) furnishing or ordering services under Medicaid that are substantially in excess of the Medicaid beneficiary’s needs or that fail to meet professionally recognized standards for health care; (3) submitting or causing Medicaid bills containing charges or costs substantially in excess of what is customary; or (4) engaging in other Medicaid program fraud and abuse, defined as conduct inconsistent with sound fiscal, business, or medical practices and resulting in unnecessary costs to the program or requesting reimbursements for services that are not medically necessary. Further, a Medicaid participation agreement can be terminated if the provider has been suspended or excluded from Medicare or convicted of a program-related offense in federal, state, or District of Columbia courts.

5) UNFAIR BUSINESS PRACTICES

**D.C. Code § 28-3901 through § 28-3913** *(Consumer Protection Procedures Act)*
The District of Columbia Consumer Protection Procedures Act (CPPA) prohibits certain deceptive and unconscionable business practices, including misrepresentation, ambiguity, or failure to state a material fact in a manner that has the tendency to mislead; or misrepresentations regarding the quality or benefits of goods or services. The District of Columbia Department of Consumer and Regulatory Affairs (DCRA) investigates and adjudicates complaints of unfair trade practices through administrative procedure. D.C. Mun. Regs. tit. 16, §§ 1500-1599. A private citizen who is able to demonstrate harm may also bring an action to sue for treble damages (or $1,500 per violation, if greater), punitive damages, and attorney’s fees, as well as request an injunction against the unlawful trade practice. D.C. Code § 28-3905(k)(1).
The District of Columbia Office of the Attorney General (OAG) may also enforce the CPPA through civil actions for an injunction, restitution of consumer damages, and civil penalties of up to $1,000 for each violation of the CPPA, as well as costs and reasonable attorney’s fees. Specifically, the OAG has specifically identified the following health care compliance issues that qualify as CPPA infractions subject to fines, without limitation to its or the DCRA’s broad and generalized enforcement authority (click [online version](#) or [PDF version](#) to access all D.C. Municipal Regulations in Title 16, Chapter 16-36):

- D.C. Mun. Regs. tit. 16, § 3601—Health Practice Infractions.
- D.C. Mun. Regs. tit. 16, § 3603—Health Facility and Community Residence Facility Infractions.
- D.C. Mun. Regs. tit. 16, § 3606—Hospital Infractions.
• D.C. Mun. Regs. tit. 16, § 3607—Nursing Facility Infractions.
• D.C. Mun. Regs. tit. 16, § 3608—Home Care Agency Infractions.
• D.C. Mun. Regs. tit. 16, § 3609—Background Checks for Health Care Workers Infractions.
• D.C. Mun. Regs. tit. 16, § 3615—Pharmacy Licensure and Posting Infractions.
• D.C. Mun. Regs. tit. 16, § 3616—Controlled Substances Infractions.
• D.C. Mun. Regs. tit. 16, § 3618—Pharmacy Drug Handling and Recordkeeping Infractions.
• D.C. Mun. Regs. tit. 16, § 3663—Licensing Assisted Living Facilities.

6) WHISTLEBLOWER PROTECTIONS

**D.C. Code Ann. § 2-223.01 et seq. (The Employees of District Contractors and Instrumentality Whistleblower Protection Act of 1998)**

District of Columbia law contains whistleblower protections for employees (or applicants) of any “instrumentality” of the District of Columbia government, as well as employees of an entity that has a contract with the District of Columbia government to supply goods or services and who is engaged in performing such contract. It prohibits a supervisor of these employees from threatening to take or taking a prohibited personnel action or other retaliatory action against an employee because of the employee’s protected disclosure or because the employee refused to comply with an illegal order. Government contractor employees who suffer retaliation for “protected disclosures” (as described above in the summary of the Whistleblower Protection Act) may recover damages and equitable relief, such as reinstatement. Retaliators may also pay up to $10,000 in penalties for each violation. The statute of limitation is the earlier of 3 years after a violation occurs or within one year after the employee first becomes aware of the violation.

**D.C. Code Ann. § 1-615.51 et seq. (D.C. Whistleblower Protection Act)**

District of Columbia law protects its government/agency employees from retaliation by his or her government employer for any “protected disclosure” of information to a supervisor or public body concerning: gross mismanagement; gross misuse, or waste of public resources or funds; abuse of authority in connection with public program or contract administration; a violation of a federal, state, or local law, rule, or terms of a contract with the District of Columbia government that rises above a “technical or minimal” violation; or substantial and specific dangers to public health and safety. If a whistleblower’s claim enables the District of Columbia to recover or prevent the loss of more than $100,000 in public funds, the whistleblower may be entitled to an award of up to $50,000. The whistleblower may bring a private action alleging retaliation in order to receive damages or injunctive relief, including reinstatement. Retaliators may also pay up to $10,000 in penalties for each violation. The statute of limitation is the earlier of 3 years after a violation occurs or within one year after the employee first becomes aware of the violation.
7) TRANSPARENCY IN PHARMACEUTICAL PROMOTIONS

D.C. Code Ann. § 3-1207.41
District of Columbia law requires pharmaceutical “detailers” to register with the Board of Pharmacy before engaging in detailing, and prohibits any such detailer from making misleading representations regarding products and the detailer’s credentials. A person is engaged in pharmaceutical detailing if, acting as a representative of a pharmaceutical manufacturer or labeler, he or she communicates in-person with a licensed health professional or a representative of a licensed health professional, in a non-conference setting, for purposes of selling, marketing or promoting a prescription or over-the-counter pharmaceutical product. Failure to obtain adequate licensure can result in a fine of up to $10,000.

D.C. Code § 48-833.01 (AccessRx Act)
District of Columbia law requires transparency in drug marketing by requiring that “[a] manufacturer or labeler of prescription drugs dispensed in the District that employs, directs, or utilizes marketing representatives in the District shall report marketing costs for prescription drugs in the District.” Manufacturers and labelers are responsible for reporting the following annually as line-item individual payments: (1) gifts to individuals (persons licensed to provide health care in the District of Columbia) and non-individuals (hospitals, clinics, nursing facilities, pharmacies, health organizations) including expenses associated with programs, food, trips, free product samples, etc.; (2) advertising expenses, defined as “[a]ll expenses associated with advertising, marketing, and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail, and telephone communications as they pertain to District residents”; and (3) aggregate costs, meaning the cost of and payments to employees or contractors directly or indirectly engaged in your advertising and promotional activities (pro rata for the activities that individual is engaged in within the District or targeted to residents or individuals employed in the District). D.C. Code § 48-833.03. The categories of reporting for gifts have been aligned with Federal Open Payments requirements under the Sunshine Act. Manufacturers are not required to report payments to the District of Columbia through the AccessRx program if those payments have otherwise been reported to CMS through the Open Payments program (transfers of value to physicians and teaching hospitals).

8) HELPFUL LINKS
- District of Columbia Statutes
- District of Columbia Municipal Regulations
- District of Columbia Office of the Attorney General’s on Consumer Protection
- District of Columbia Department of Health on AccessRx