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# Provider Compliance Training

# Contents





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# Federal False Claims Act (FCA)

MemorialCare Select Health Plan complies with all applicable federal and state laws including the Federal False Claims Act (FCA). The federal False Claims Act (31 USC § 3729-33 is a federal law that makes it a crime for any person or organization to knowingly make a false record or file a false claim to any program funded directly, in whole or in part, by the federal government.

The False Claims Act applies to individuals and facilities that knew or should have known that a claim was false. Any false or incorrect claim can be a violation. Single mistakes are not usually treated as fraud. Repeating the same error is a violation of FCA. The FCA does not need proof of someone's intent to defraud the government for the law to be considered broken.



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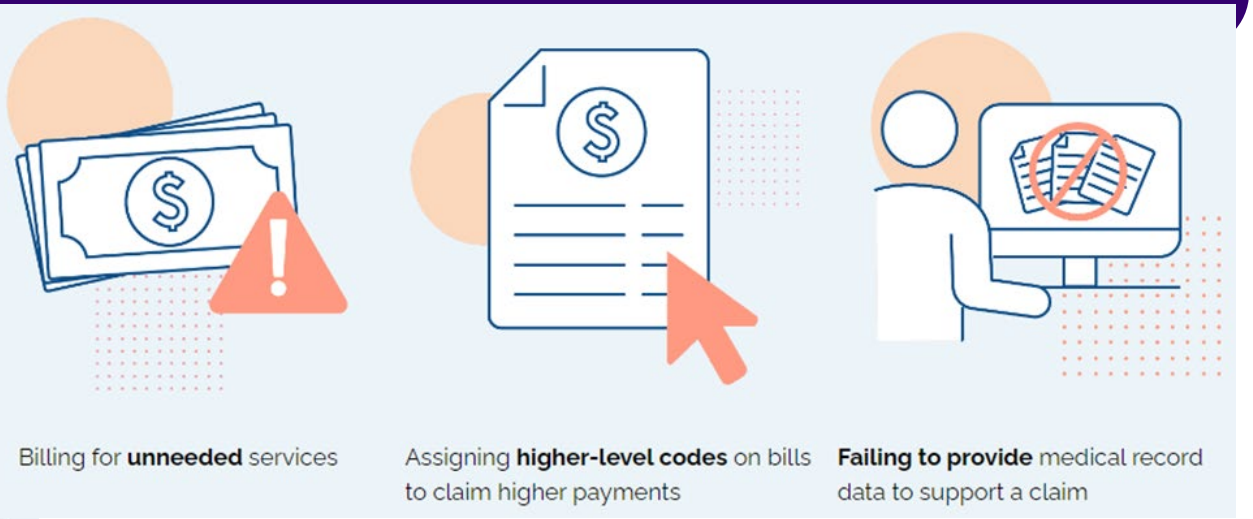
# There are many ways a claim can be false

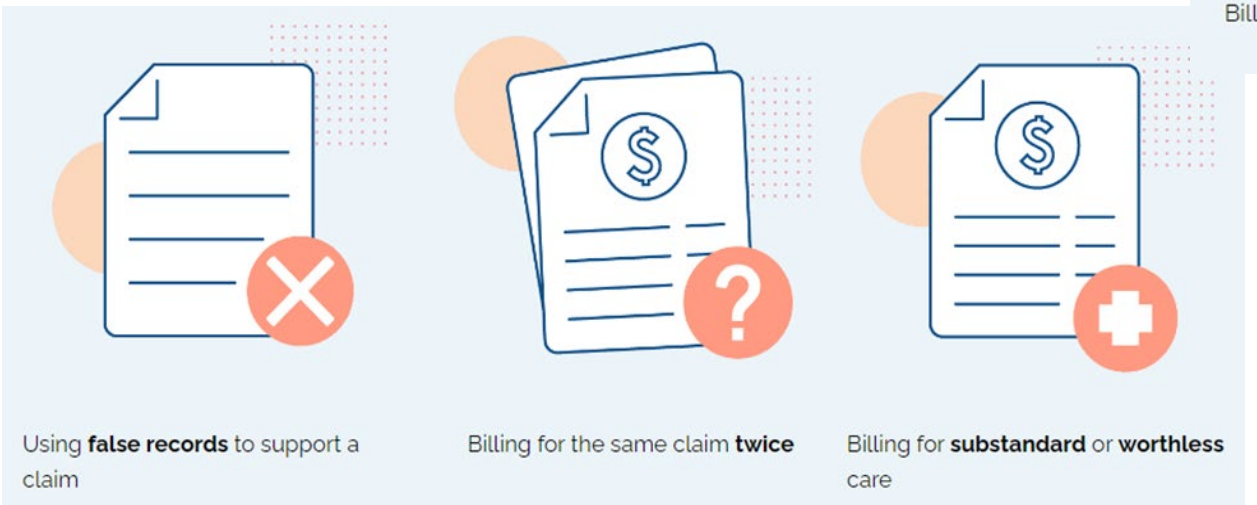
## Here are some examples:



Billing for **unneeded** services

Assigning **higher-level codes** on bills to claim higher payments

**Failing to provide** medical record data to support a claim



Using **false records** to support a claim

Billing for the same claim **twice**

Billing for **substandard** or **worthless** care



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# Federal False Claims Act (FCA)

Penalties for violating the federal False Claims Act are significant. Financial penalties for submitting a false claim can total as much as three times the amount of the claims, plus fines of $5,500 - $11,000 per claim.

The False Claims Act also protects individuals who report alleged fraud in good faith from retaliation. MemorialCare Select Health Plan will investigate allegations of fraud, waste & abuse and reports of non-compliance on any level.

You can report your concern anonymously by calling or emailing the Compliance & Ethics Hotline.
**Compliance & Ethics Hotline** Available 24/7, 365 days of the year **Dial toll-free: 888-933-9044**
OR **Email: memorialcare.ethicspoint.com**



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# Fraud Waste & Abuse

## What is FWA?

### FRAUD

**Fraud** is an intentional act. If someone lies to get money from a healthcare benefit program, it is fraud. Fraud is doing something wrong on purpose.

Example: Billing for procedures or supplies that were not provided

### WASTE


**Waste** is overusing a service that results in extra cost. It can be service or practice related. Waste is not an intentional act. Instead, it is a careless or thoughtless one. Often, waste is the result of poor practices, systems, or controls. Waste is about inefficiencies.

Example: Ordering extra diagnostic tests that are not needed

### ABUSE

**Abuse** is when there is an extra cost to a federal healthcare benefit program. It is when a provider does not care for an individual properly then sends a bill to the healthcare program. Abuse is about bending the rules.

Example: Improper billing practices like upcoding and charging for medical services that were not needed



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# Examples of Fraud & Abuse

| By a Member | By a Provider |
|---|---|
| Sharing ID card | Billing for services or items not medical necessary |
| Forging a prescription | Billing for services or items not rendered |
| Knowingly enrolling someone not eligible for coverage<br>under their policy or group coverage | Upcoding or Unbundling |
| Providing misleading information on or omitting information from an application for health care coverage | Beneficiary fraud |

Fraud, Waste, and Abuse Toolkit—Health Care Fraud and Program Integrity: An Overview for Providers Booklet (cms.gov)



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# Reporting FWA

**All healthcare workers have a duty to speak up if they see or hear something.**

**Complaints about fraud, waste, or abuse should always be reported:**

- According to your facility's policies and procedures.
- To a manager.
- To your compliance or privacy officer.
- Using your facility's compliance hotline.
- MCSHP Compliance & Ethics Hotline - **Dial toll-free: 888-933-9044** or **memorialcare.ethicspoint.com**



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# HIPAA Privacy Rule

**The HIPAA Privacy Rule requires healthcare facilities to protect individually identifiable health information. This is data held or sent by a healthcare facility in any form: spoken, written, or electronic.**

It is created or received by a covered entity (CE) and relates to any of the following:

- A person's past, present, or future physical or mental health or condition
- Any healthcare given to a person
- The past, present, or future payment for healthcare given to a person



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# What is PHI?

**Protected health information includes any data that identifies someone, such as their name, address, phone number, date of birth, Social Security number, and medical record.**

***Example:***

A test report, lab results, or a bill for care provided would be PHI.

This is because each document would have a person's name. It would also have other identifying data associated with the health data.

If there is any reason to believe that information can be used to identify someone, it should be protected.



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# Notice of Privacy Practices (NPP)

- All individuals must receive a Notice of Privacy Practices (NPP).
- This notice tells them how the facility uses or shares their PHI with others.
- The NPP describes the facility's duty to protect privacy. It explains their rights as individuals in the facility.
- If they have questions or wish to make a complaint, the NPP also includes contact information for the person who can help.

# Notice of Privacy Practices (NPP)

## The Privacy Rule tells Provider to do the following:

| | | | |
|---|---|---|---|
| Provide an NPP the first time they provide service to a patient.<br>If not in person, provide the NPP electronically. | Have the individual respond in writing that they received the NPP. | Post the NPP in an easily seen area and provide a copy when asked.<br>Provide in different languages as needed | Update the NPP when the law or policies change.<br>Make updates available to all individuals receiving care. |

## Additional Responsibilities of Provider:

| | | |
|---|---|---|
| Have a policy and procedures regarding breach notification | Train employees in HIPAA policy and procedures | Hold staff accountable if breach policy and procedures are not followed |



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# Notice of Privacy Practices (NPP)

## Breaches

A breach is when someone gets, looks at, or shares PHI with others against HIPAA rules.

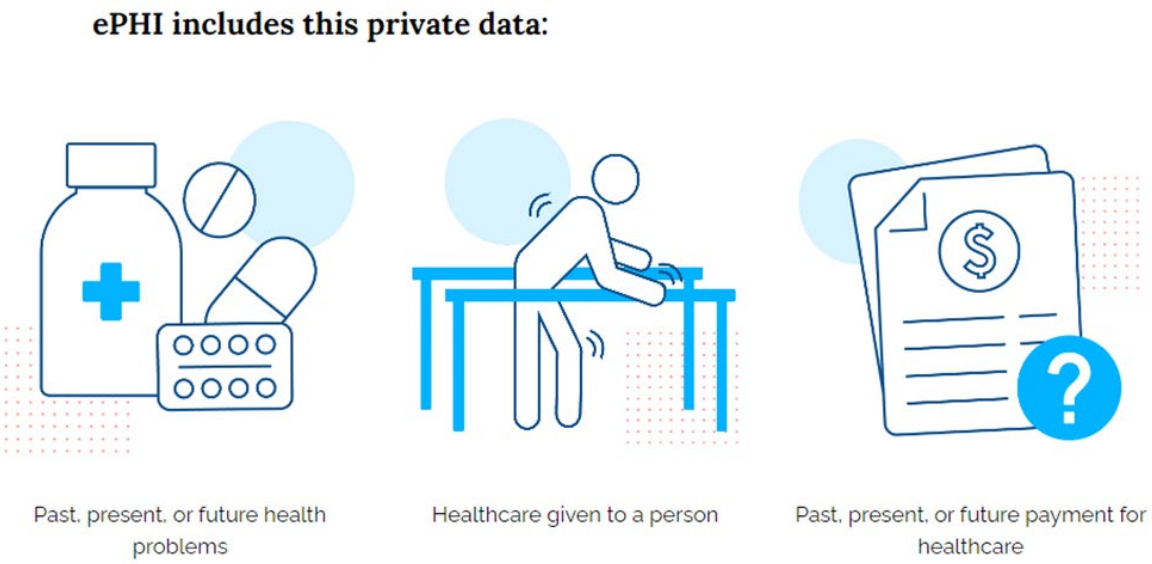
Breaches harm the security or privacy of PHI. **Examples** of breaches include the following:

- A healthcare worker's car was broken into while they were in a store, and their work laptop was stolen.
- A healthcare worker talks about a person in their care while in front of other people in their care.
- A healthcare worker faxes parts of a medical record to the wrong number.

# Electronic Protected Health Information (ePHI)

**The Privacy Rule identifies what data to keep protected. It explains the rights patients have to control access.**

**The Security Rules tells us how to keep ePHI safe. ePHI is the electronic information used to recognize someone.**



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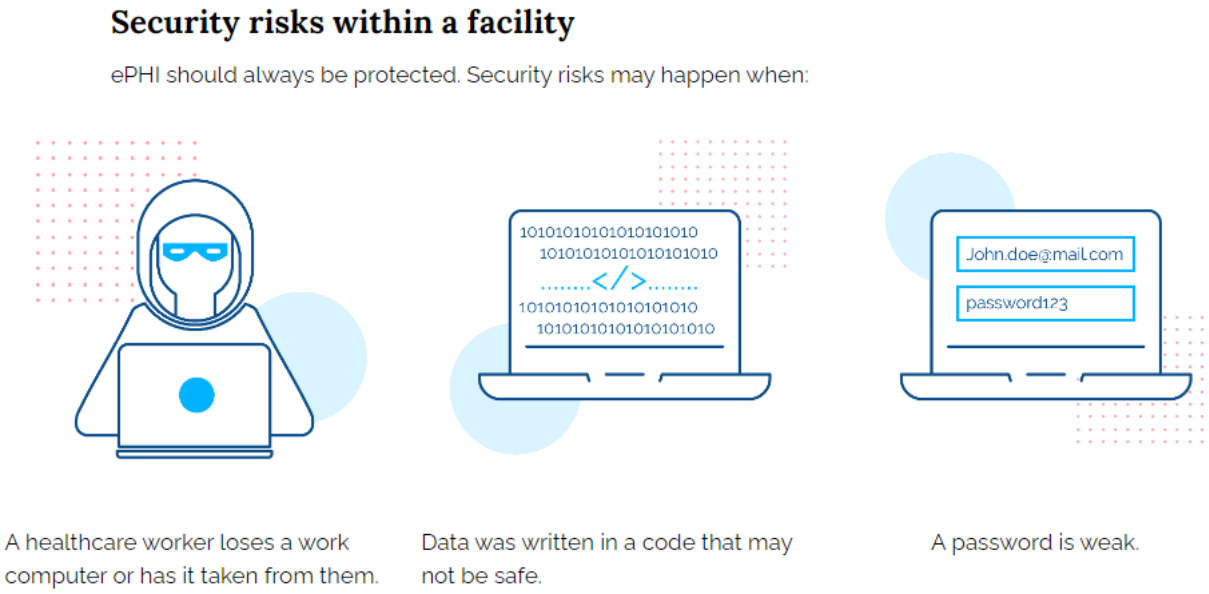
# Recognizing Risks

**A major goal of the Security Rule is to protect the privacy of ePHI.**

**The Rule helps facilities create policies and procedures and add technologies that work well for their size, structure, and possible risks.**



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# Security risks outside the facility

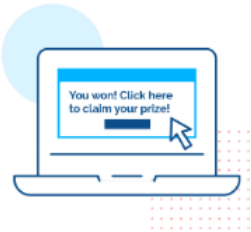
**Electronic health records have data that some people want for themselves. They can use this data to get health services, medicines, or other things while pretending to be a healthcare worker.**

**They can also sell this data to others. This is called** medical identity theft**. It is when someone breaks the law by stealing ePHI or tricking people into giving it away.**

**Healthcare workers should be aware of these tricks:**

**Hacking:**
Someone getting into electronic data without permission


**Social engineering:**
Tricking a person into giving away ePHI by pretending to be someone they can trust




**Phishing:**
Tricking a person into giving personal data through a false email or website

**Malware:**
Software used to damage computers or systems



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# Safeguards

**Covered entities (CEs) are health plans, healthcare clearinghouses, and any healthcare provider who sends health information electronically.**

**Most healthcare facilities are covered entities. The Security Rule requires all CEs to take action to keep ePHI safe.**

**CEs can protect ePHI by doing the following:**

- Checking that all ePHI is private and available only to those who need it
- Protecting against risks and problems from changed or destroyed data
- Preventing the wrong people from using and giving ePHI
- Making sure people follow the rules to keep ePHI safe

# Resources

- MCSHP Compliance & Ethics Hotline - Dial toll-free: 888-933-9044 or memorialcare.ethicspoint.com
- CHCF - https://www.chcf.org/



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