

<b>POLICY AND PROCEDURE NIVANO PHYSICIANS, INC. (NIVANO PHYSICIANS)</b>	<b>COMP3 Original Effective Date: 01/01/18 Revised Date: 12/18/18 Revised Date:</b>
<b>DEPARTMENT</b>	<b>Compliance</b>
<b>SUBJECT</b>	<b>Fraud, Waste and Abuse</b>

**APPLIES TO:**

- A. This policy applies to all Nivano Physicians, Inc. (Nivano Physicians) Employees, Providers, First Tier Entities, Downstream Entities, and Contractors.
1. First Tier Entity: Any party that enters into a written arrangement with an organization or contract applicant to provide administrative or health care services for an eligible individual.
  2. Downstream Entity: Any party that enters into an acceptable written arrangement below the level of the arrangement between an organization (and contract applicant) and a First Tier Entity. These written arrangements continue down to the level of the ultimate provider of health and/or administrative services.
  3. Contractors: Includes all contracted providers and suppliers, first tier entities, downstream entities and any other entities involved in the delivery of payment for or monitoring of benefits.

**POLICY:**

- A. Nivano Physicians believes that Compliance with fraud prevention and reporting is everyone's responsibility.
- B. Nivano Physicians has developed a Fraud, Waste and Abuse (FWA) Program to comply with the Centers for Medicare and Medicaid Services (CMS) Medicare Advantage requirements in preventing and detecting fraud in federal and state funded programs.
- C. The objective of Nivano Physicians' FWA is to identify and reduce costs caused by fraudulent activities and to protect consumers, members, health care providers and others in the delivery of health care services.
- D. Providers, First Tier Entities, Downstream Entities, and Contractors are educated regarding the federal and state false claims statutes and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs.
- E. Nivano Physicians has created a Compliance Committee (CC) to oversee its FWA and to manage all instances of suspected fraud.
- F. All activities of the CC are confidential to the extent permitted by law.
- G. Nivano Physicians reports its fraud prevention activities and suspected fraud to regulatory and law enforcement agencies as required by law.

- H. Providers, First Tier Entities, Downstream Entities, and Contractors must adhere to Federal and California State laws, including but not limited to False Claims laws.
- I. Providers, First Tier Entities, Downstream Entities, and Contractors with Nivano Physicians will comply with Federal and California State laws in regards to the detection, reporting, and investigation of suspected fraud and abuse.

**DEFINITIONS:**

- A. A complaint of fraud, waste and/or abuse is a statement, oral or written, alleging that a practitioner, supplier, or beneficiary received a benefit to which they are not otherwise entitled. Included are allegations of misrepresentations and violations of Medicare, Medicaid or other health care program requirements applicable to persons applying for covered services, as well as the lack thereof of such covered services.
- B. Fraud and abuse differ in that:
  - 1. Abuse applies to practices that are inconsistent with sound fiscal, business, medical or recipient practices and result in an unnecessary cost to a health care program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. Mistakes that are repeated after discovery or represent an on-going pattern could constitute abuse.
  - 2. Fraud is an intentional or knowing misrepresentation made by a person with the knowledge (or knowingly) that the deception could result in some unauthorized benefit to him/herself or another person. It includes any portion that constitutes fraud under applicable federal or state law. Mistakes that are not committed knowingly or that are a result of negligence are not fraud but could constitute abuse.
- C. Waste Overutilization:
  - 1. The extravagant careless or needless expenditure of healthcare benefits / services.

**REFERENCES:**

- A. Code of Federal Regulations, Title 42, Part 422 and 423
- B. Code of Federal Regulations, Title 42, §438.608 and §455.2
- C. Federal False Claims Act, US Code, Title 31
- D. Health & Safety Code §1348
- E. Welfare & Institutions Code, §14043.1
- F. CMS 2007 MA-PDP Contract H5640, Attachment A

**PROCEDURE:**

- A. Nivano Physicians' FWA Program is designed to deter, identify, investigate and resolve potential fraudulent activities that may occur in Nivano Physicians daily operations, both internally and externally.
- B. The Chief Compliance Officer is responsible for ensuring that the objectives of Nivano Physicians' Fraud, Waste and Abuse Program are carried out, and for preventing, detecting and

investigating fraud-related issues in a timely manner. To accomplish this, the Chief Compliance Officer designates and oversees the Compliance Department to perform the following responsibilities:

1. Developing fraud training programs to educate staff, Providers, practitioners, Members, First Tier Entities, Downstream Entities, and Contractors on prevention, deterrence and detection of fraud, waste and abuse.
  2. Identifying, detecting, thoroughly investigating, managing and resolving all suspected instances of fraud, waste, and abuse internally and externally.
  3. Cooperating with, reporting and referring suspected fraud, waste and abuse to the appropriate governmental and law enforcement agencies, as applicable, including exchange of information as appropriate.
- C. Both Nivano Physicians and Providers have responsibilities for fraud prevention.
- D. Nivano Physicians responsibilities include, but are not limited to the following:
1. Training Nivano Physicians staff, Providers, practitioners, First Tier Entities, Downstream Entities, and Contractors on fraud; Nivano Physicians Fraud, Waste and Abuse Program, and fraud prevention activities within the first ninety (90) days of initial employment and at least annually thereafter.
  2. Continuous monitoring and oversight, both internally and externally, of daily operational activities to detect and/or deter fraudulent behavior. Such activities include, but are not limited to:
    - a. Monitoring of Member grievances
    - b. Monitoring of Provider and physician grievances
    - c. Claims Audits and monitoring activities, including audits of the P4P Program and other direct reimbursement programs to physicians
    - d. Review of Providers' financial statements
    - e. Medical Management Audits
    - f. Utilization Management monitoring activities
    - g. Quality Management monitoring activities
    - h. Case Management Oversight activities
    - i. Pharmacy Audits
    - j. Encounter Data Reporting Edits
    - k. Chart Audits
  3. Investigating and resolving all reported and/or detected suspected instances of fraud and taking action against confirmed suspected fraud, waste, and abuse including but not limited to reporting to law enforcement agencies, termination of the Nivano Physicians contract (if a Provider, direct contracting practitioner, First Tier Entities, Downstream Entities, and Contractors), and/or removal of a participating practitioner from the Nivano Physicians network. Nivano Physicians reports suspected fraud to the following entities, as deemed appropriate and required by law:

- a. The Centers for Medicare and Medicaid Services (CMS) through the Medicare Drug Integrity Contractor (MEDIC).
  - b. The State and/or Federal Offices of the Inspector General (Medicaid/Medicare Fraud)
  - c. California Department of Health Care Services (DHCS). Local law enforcement agencies
4. Submitting periodic reports to CMS as required by law.
  5. Encouraging and supporting Provider activities related to fraud prevention and detection.
  6. Nivano Physicians is responsible for maintaining records for a period of ten (10) years for attendance, topic, certificates of completion (if applicable), and test scores of any tests administered to their employees, and must require FDRs to maintain records of the training of the FDRs employees.
- E. The Providers', First Tier Entities, Downstream Entities, and Contractors' responsibilities for fraud prevention and detection include, but are not limited to, the following:
1. Training staff, on Nivano Physicians and Provider's Fraud, Waste and Abuse Program and fraud, waste and abuse prevention activities and false claims laws upon initial employment and at least annually thereafter.
  2. Verifying and documenting the presence/absence of office staff and contracted individuals and/or entities by accessing the LEIE, GSA and California Medi-Cal exclusion list sites prior to hire/contracting and monthly thereafter: Terminating the Nivano Physicians network participation of individuals and entities who appear on the Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE), the General Services Administration Excluded Parties List (GSA); and/or the California Medi-Cal exclusion list.
  3. Developing a FWA Program, implementing fraud, waste and abuse prevention activities and communicating such program and activities to staff, contractors and subcontractors.
  4. Communicating awareness, including:
    - a) Identification of fraud, waste and abuse schemes.
    - b) Detection methods and monitoring activities to contracted and subcontracted entities and Nivano Physicians.
  5. Notifying Nivano Physicians of suspected fraudulent behavior and asking for assistance in completing investigations.
  6. Taking action against suspected or confirmed fraud, waste and abuse including referring such instances to MEDIC, DHCS and /or law enforcement and reporting activity to Nivano Physicians.
  7. Policing and/or monitoring own activities and operations to detect and/or deter or prevent fraudulent behavior.
  8. Cooperating with Nivano Physicians in fraud, waste and abuse detection and awareness activities, including monitoring, reporting, etc., as well as cooperating with Nivano Physicians in fraud, waste and abuse investigations to the extent permitted by law.

9. Return of identified overpayments of state and/or federal claims with in federal timelines.

F. Reporting Concerns Regarding Fraud, Waste Abuse and False Alarms

1. Nivano Physicians takes issues regarding false claims and fraud, waste and abuse seriously. Nivano Physicians providers, and their contractors or agents of Nivano Physicians' providers are to be aware of the laws regarding fraud, waste and abuse and false claims and to identify and resolve any issues immediately. Affiliated providers' employees, managers, and contractors are to report concerns to their immediate supervisor when appropriate.
2. Nivano Physicians provides the following ways in which to report alleged and/or suspected fraud, waste and/or abuse directly to the plan:
  - a. In writing to: Compliance Officer  
Nivano Physicians, Inc.  
P.O. Box 255568  
Sacramento, CA 95825
  - b. By E-mail to: [compliance@nivanophysicians.com](mailto:compliance@nivanophysicians.com)
  - c. By fax to: (916) 588-9624
3. The Suspected Noncompliance/Fraud Report Form is to be completed when reporting concerns regarding fraud, waste, abuse and false claims
4. The following information is needed in order for Nivano Physicians to investigate suspected fraud, waste and/or abuse:
  - a. Your name. Although you may choose to report anonymously, it is very helpful for the Nivano Physicians Compliance Department to hear the allegations directly from you. If you choose to give your name, please provide a contact number and a date and time for a return call at a time and place confidential for you.
  - b. The name(s) of the party/parties/departments involved in the suspected fraud.
  - c. Where the suspected fraud may have occurred.
  - d. Details on the suspected criminal activity.
  - e. When the suspected fraud took place, for example over what period of time.
  - f. A description of any documentation in your possession that may support the allegation of fraud, waste and/or abuse.
5. Nivano Physicians will initiate an investigation as quickly as possible, but not later than two (2) weeks after the potential noncompliance or FWA was identified.
6. Nivano Physicians will conclude investigations and undertake corrective actions with the purpose of correcting the problem that resulted in the potential noncompliance or potential FWA within a reasonable time after the activity was discovered.

- a. The corrective action will address the noncompliance or FWA committed by the employee or subcontractor with ramifications based on the problem or unsatisfactory corrective action implementation including, but not limited to, write ups, monitoring of work performance, and termination of employment or contract.
7. Information reported to the Nivano Physicians Fraud Prevention Program will remain confidential to the extent possible by law.
8. Nivano Physicians expressly prohibits retaliation against those who, in good faith, report potential fraud, waste and abuse to the Fraud, Waste, and Abuse Program. Information of Whistleblower Protections and the False Claims Act is included in the annual Compliance Training Program available to Providers, First Tier Entities, Downstream Entities, and Contractors.
  - a. This is documented in the employee handbook and the policy is also located on the company website (<https://nivanophysicians.com/compliance.html>).
  - b. Nivano Physicians also posts “Whistleblowers are Protected” information in the designated common area break room.