

**American Health Lawyers Association**

**Fraud and Abuse, Self-Referrals, and False Claims Practice Group**

**SUMMARY OF FRAUD AND ABUSE STATUTES & REGULATIONS**

**DELAWARE**

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**[ANTI-KICKBACK](#)**

**Del. Code Ann. tit. 31 § 1005 (Welfare)**

Delaware law makes it unlawful for any person to solicit, receive, offer or pay any remuneration directly or indirectly, in cash or in kind, overtly or covertly, in return for referring an individual to a provider for medical care or medical assistance which is covered by any public assistance program. The law similarly makes it unlawful for any person to solicit, receive, offer or pay any remuneration directly or indirectly, in cash or in kind, overtly or covertly, in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing, or ordering any property, facility, service or item of medical care or medical assistance which is covered by any public assistance program. In addition, it is unlawful for any provider to “charge, solicit, accept or receive for any

service provided to a recipient, money or other consideration in addition to or at a rate in excess of the rates established by the State for such item or service.” It is also unlawful for a provider to “charge, solicit or receive,” in addition to the amount paid by the State, “any gift, money, donation, or other consideration (other than a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the patient) as a precondition to admitting a patient to a hospital, skilled nursing facility or intermediate care facility, or as a requirement for the patient’s continued stay in such a facility, when the cost of services provided therein is paid for, in whole or in part, by the State.” The restrictions in this section of the code do not apply to discounts or price reductions that are obtained by a provider if such reductions are properly disclosed and reflected appropriately in the costs that are claimed or the charges that are made by the provider. In addition, the above restrictions do not apply to wages that are paid by an employer to an employee as part of a bona fide employment relationship, contracts between the state and a public or private agency which has a responsibility to refer a person to a provider, dividends that are based on a legitimate ownership interest, or fees for services that are actually rendered, so long as such fees are not made in order to induce referrals to the provider.

[http://delcode.delaware.gov/title31/c010/index.shtml#P56\\_2876](http://delcode.delaware.gov/title31/c010/index.shtml#P56_2876)

#### **Del. Code Ann. tit. 31 § 1007 (Welfare)**

Section 1007 states that anyone who violates Title 31, Section 1005 of the Delaware Code shall be guilty of a felony. In addition, a provider convicted under Title 31, Chapter 10 (Fraudulent Acts) must make a full restitution to the state of unlawfully received money, goods or services, or the value of such goods or services, plus interest of 1.5% per month from the time that the provider received payment until the state is repaid. The provider will also be excluded from the Delaware Public Assistance Program. However, upon petition of the provider, where the community could be adversely affected by such exclusion, the Secretary of the Department of Health and Human Services may conduct a hearing to determine whether the provider’s continued participation in the program is in the best interests of the state or whether there is a need for a comparable provider to render the needed services.

[http://delcode.delaware.gov/title31/c010/index.shtml#P88\\_6115](http://delcode.delaware.gov/title31/c010/index.shtml#P88_6115)

#### **Del. Code Ann. tit. 31 § 1008 (Welfare)**

A provider who violates Title 31, Section 1005 of the Delaware Code may also be liable for three times the amount of excess payments, a payment of \$2,000 in civil penalties for any deceptive claim or falsification, and any reasonable expenses incurred by the state in its enforcement efforts. These civil penalties may be brought against a provider even if the provider has not been criminally convicted, and they may be levied on a provider who has received benefits or payments to which the provider was not entitled even if the provider had no intent to violate Section 1005 or other sections in Chapter 10, Title 31 of the Delaware Code.

[http://delcode.delaware.gov/title31/c010/index.shtml#P101\\_7931](http://delcode.delaware.gov/title31/c010/index.shtml#P101_7931)

#### **Del. Code Ann. tit. 24 § 1731 (b)(3) and (7) (Professions and Occupations)**

Chapter 17 of Title 24, entitled Medical Practice Act, sets out that a person certified to practice medicine in Delaware who engages in dishonorable, unethical, or other conduct likely to deceive, defraud, or harm the public, or who advertises the practice of medicine or other profession or occupation regulated under the chapter in an unethical or unprofessional manner may be disciplined by the Board with a fine, restriction,

suspension, or permanent or temporary revocation of his certificate to practice medicine, or by other appropriate actions including required continuing education courses.

<http://delcode.delaware.gov/title24/c017/sc04/index.shtml#TopOfPage>

#### **24 DE Admin Code 1700 (Board Of Medical Practice)**

Delaware's Administrative Code defines the "dishonorable or unethical conduct" references in Del. Code Ann. tit. 24 § 1731(b)(3):

15.1 The phrase "dishonorable or unethical conduct likely to deceive, defraud, or harm the public" as used in 24 Del. C. § 1731(b)(3) shall include, but not be limited to, the following specific acts:

15.1.3 Fraudulent billing for medical services.

15.1.5 Fraudulent advertising.

15.1.9 Payment of a fee by a physician to another physician who has referred the patient to him, unless the fee is in proportion to work actually performed by the referring physician.

15.1.10 Any other act tending to bring discredit upon the profession.

15.1.11 Willful failure to disclose to a patient that a referring physician has the financial interest in an ancillary testing or treatment facility outside of the physician's office.

<http://regulations.delaware.gov/AdminCode/title24/1700%20Board%20of%20Medical%20Practice.shtml#TopOfPage>

#### **Del. Code Ann. tit. 24 § 2113(a)(4) (Professions and Occupations)**

A licensed optometrist may be subject to disciplinary proceedings if the optometrist has been found to have solicited, in person or through an agent or agents, for the sale of ophthalmic materials or optometric services involving any form of kickback arrangement, or has provided financial remuneration or payment in kind to a nonpractitioner in order to induce referrals from that nonpractitioner.

[http://delcode.delaware.gov/title24/c021/index.shtml#P160\\_24822](http://delcode.delaware.gov/title24/c021/index.shtml#P160_24822)

#### **Del. Code Ann. tit. 24 § 2616(a)(8) (Professions and Occupations)**

The Examining Board of Physical Therapists and Athletic Trainers may, after due notice and hearing, refuse to license or register an applicant, may refuse to renew the license or registration of any person, or may suspend or revoke the license or registration of a licensed or registered person who, indirectly or directly engages in the division, transferring, assigning, rebating or refunding of fees received for professional services, or if he or she profits by means of a credit or other valuable consideration (including wages, unearned commissions, discounts or gratuities), with any person who has referred a patient or with a relative or business associate of the referring person. However, any business entity recognized by Delaware law and comprised of physical therapists or athletic trainers may divide their total fees among themselves as they determine by contract necessary to defray their joint operating costs. The above restriction does not apply to physical therapist or athletic trainer positions held by physical therapists or athletic trainers who were employed by licensed medical and osteopathic physicians at the time that the statute was passed.

[http://delcode.delaware.gov/title24/c026/index.shtml#P170\\_31805](http://delcode.delaware.gov/title24/c026/index.shtml#P170_31805)

#### **Attorney General Opinion No. 02-IB25 (Oct. 10, 2002)**

In this opinion, the Attorney General explained that the prohibition on physical therapists and athletic trainers in Del. Code Ann. tit. 24 § 2616(a)(8) bars physical therapists from accepting referrals from anyone with whom they divide, transfer, assign, refund, or rebate fees. The Attorney General also specified that the section bars a physician-owned

practice or group practice from referring its own patients to an in-house physical therapist employed by the practice. Included in Section 2616(a)(8), however, is a grandfather clause that allows physical therapists or athletic trainers in the employ of physicians at the time of the enactment of the statute to continue to receive referrals from their employers. In addition, the Attorney General stated that Section 2616(a)(8) does not require that an organized business entity be made up solely of physical therapists or athletic trainers in order to allow the division of fees in order to defray costs of operation.

<http://attorneygeneral.delaware.gov/office/opinions/2002/02-ib25.htm>

#### **Atty. Gen. Opinion No. 89-1021 (1989)**

The Attorney General held in this opinion that the grandfather clause in Del. Code Ann. tit. 24 § 2616(a)(8) for physical therapist positions employed by physicians at the time of the enactment of the statute did not allow a physician to sell or transfer a grandfathered physical therapist position. However, a physician who had employed a physical therapist at the time of the enactment of the statute may hire a new physical therapist even if he has not consistently employed a physical therapist since the time the statute was enacted.

#### **Del. Code Ann. tit. 24 § 5313(a)(7) (Professions and Occupations)**

A licensed or certified massage or bodywork therapist may be disciplined if he or she, indirectly or directly, has engaged in the division, transferring, assigning, rebating or refunding of fees received for professional services, or profits by a credit or other consideration (including wages, unearned commissions, discounts or gratuities), with a person who has referred a patient or with a relative or business associate of the referring person. However, a business entity recognized by Delaware law and comprised of massage therapists may divide fees amongst the members of the entity in order to defray joint operating costs.

[http://delcode.delaware.gov/title24/c053/sc02/index.shtml#P100\\_12143](http://delcode.delaware.gov/title24/c053/sc02/index.shtml#P100_12143)

#### **24 DE Admin Code 2600, § 1.1.1 (Examining Board of Physical Therapists and Athletic Trainers)**

Once a patient has been receiving physical therapy for 30 calendar days after an initial assessment, a licensed health care practitioner who has prescriptive authority must be consulted. This practitioner should be the patient's personal practitioner. If the patient does not have such a practitioner, the physical therapist may offer the patient three names of licensed health care practitioners from which to choose, but such a referral must be in compliance with Del. Code Ann. tit. 24 § 2616(a)(8).

<http://regulations.delaware.gov/AdminCode/title24/index.shtml#TopOfPage>

#### **24 DE Admin Code 3900, § 9.1.4 (Board of Clinical Social Work Examiners)**

Where a licensed social worker refers a client to other service providers, no commission, rebate or any other remuneration may be given or received for the referral of clients for professional services, whether by an individual or an organization.

<http://regulations.delaware.gov/AdminCode/title24/index.shtml#TopOfPage>

#### **24 DE Admin Code 3700, § 9.3.1.4 (Board of Examiners of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers; Rules and Regulations)**

The Code of Ethics for Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers states that licensees must inform their clients whenever a conflict of interest exists or may exist, including instances involving kickbacks or where a client has been "steered" to a particular provider by one with an expectation of financial gain. The client must also be informed where the provider has engaged in "double dipping," or providing

services in a private practice that the provider is obligated to provide through public employment.

<http://regulations.delaware.gov/AdminCode/title24/index.shtml#TopOfPage>

#### **24 DE Admin Code 2500, § 2.1.10 (Board of Pharmacy; Rules and Regulations)**

A pharmacist may be disciplined for unprofessional conduct, including the payment of money or the provision of free services to a third party in return for the third party's referral of patients to the pharmacist or pharmacy.

<http://regulations.delaware.gov/AdminCode/title24/index.shtml#TopOfPage>

### **PROHIBITIONS ON SELF-REFERRAL**

#### **Del. Code Ann. tit. 24 § 1731 (b)(3) and (7) (Professions and Occupations)**

Chapter 17 of Title 24, entitled Medical Practice Act, sets out that a person certified to practice medicine in Delaware who engages in dishonorable, unethical, or other conduct likely to deceive, defraud, or harm the public, or who advertises the practice of medicine or other profession or occupation regulated under the chapter in an unethical or unprofessional manner may be disciplined by the Board with a fine, restriction, suspension, or permanent or temporary revocation of his certificate to practice medicine, or by other appropriate actions including required continuing education courses.

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15.1.10 Any other act tending to bring discredit upon the profession.

15.1.11 Willful failure to disclose to a patient that a referring physician has the financial interest in an ancillary testing or treatment facility outside of the physician's office.

<http://regulations.delaware.gov/AdminCode/title24/1700%20Board%20of%20Medical%20Practice.shtml#TopOfPage>

#### **Del. Code Ann. tit. 24 § 2616(a)(8) (Professions and Occupations)**

The Examining Board of Physical Therapists and Athletic Trainers may, after due notice and hearing, refuse to license or register an applicant, may refuse to renew the license or registration of any person, or may suspend or revoke the license or registration of a licensed or registered person who, indirectly or directly engages in the division, transferring, assigning, rebating or refunding of fees received for professional services, or if he or she profits by means of a credit or other valuable consideration (including wages, unearned commissions, discounts or gratuities), with any person who has referred a patient or with a relative or business associate of the referring person. However, any business entity recognized by Delaware law and comprised of physical therapists or athletic trainers may divide their total fees among themselves as they

determine by contract necessary to defray their joint operating costs. The above restriction does not apply to physical therapist or athletic trainer positions held by physical therapists or athletic trainers who were employed by licensed medical and osteopathic physicians at the time that the statute was passed.

[http://delcode.delaware.gov/title24/c026/index.shtml#P170\\_31805](http://delcode.delaware.gov/title24/c026/index.shtml#P170_31805)

#### **Attorney General Opinion No. 02-IB25 (Oct. 10, 2002)**

In this opinion, the Attorney General explained that the prohibition on physical therapists and athletic trainers in Title 24, Section 2616(a)(8) of the Delaware Code bars physical therapists from accepting referrals from anyone with whom they divide, transfer, assign, refund, or rebate fees. The Attorney General also specified that the section bars a physician-owned practice or group practice from referring its own patients to an in-house physical therapist employed by the practice. Included in Section 2616(a)(8), however, is a grandfather clause that allows physical therapists or athletic trainers in the employ of physicians at the time of the enactment of the statute to continue to receive referrals from their employers. In addition, the Attorney General stated that Section 2616(a)(8) does not require that an organized business entity be made up solely of physical therapists or athletic trainers in order to allow the division of fees in order to defray costs of operation.

<http://attorneygeneral.delaware.gov/office/opinions/2002/02-ib25.htm>

### **FALSE CLAIMS/FRAUD & ABUSE**

#### **Del. Code Ann. tit. 6 § 1201 et. seq. (Commerce and Trade)**

Delaware False Claims and Reporting Act. A person who does any of the following violates the False Claims and Reporting Act: (1) Knowingly presents, or causes to be presented, directly or indirectly, to an officer or employee of the Government a false or fraudulent claim for payment or approval; (2) Knowingly makes, uses or causes to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim paid or approved; (3) Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid; (4) Has possession, custody or control of property or money used or to be used by the Government and, intending to defraud the Government or willfully to conceal the property, delivers or causes to be delivered, less property than the amount for which the person receives a certificate or receipt; (5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true; (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government who the person knows may not lawfully sell or pledge the property; or (7) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, increase or decrease an obligation to pay or transmit money or property to or from the Government. Liability for violation includes: (1) at least \$5,500 but not more than \$11,000 for each act constituting a violation; (2) three times the amount of actual damages which the government sustains because of the act of that person; and (3) the costs to the government of bringing an action to recover any such penalty or damages, including reasonable attorneys fees and costs. The Delaware False Claims and Reporting Act allows for private plaintiffs (*qui tam* relators) to bring actions enforcing violations of the Act. The Delaware government may choose to intervene in the plaintiff's action, and if it does so, the government has the exclusive responsibility for prosecuting the action. If the government decides not to intervene in

the action, the *qui tam* relator has the right to continue the action on his or her own. If the government intervenes and the action is successful, resulting in proceeds or a settlement, the *qui tam* relator is entitled to at least 15 percent but no more than 25 percent of the proceeds or settlement. However, if the government does not intervene and the action results in proceeds or a settlement, the relator is entitled to not less than 25 percent but not more than 30 percent of the proceeds and shall be paid out of those proceeds. Employee whistleblowers are afforded protections under the Delaware False Claims and Reporting Act. The Act provides that an employee is entitled to relief if he or she is discharged, demoted, suspended, threatened or discriminated against in other ways in his or her employment for furthering an enforcement action under the Act. Such relief may include reinstatement with the same seniority status, two times the amount of back pay, interest on the back pay and compensation for any special damages. Protection is not limited to only government employees, but is extended to “any employee” who meets the stated criteria.

[http://delcode.delaware.gov/title6/c012/index.shtml#P12\\_179](http://delcode.delaware.gov/title6/c012/index.shtml#P12_179)

#### **Del. Code Ann. tit. 31 § 1003 (Welfare)**

It is illegal for a provider -- defined as a person who is enrolled and who provides the goods or services for which payment by a medical assistance program of the state is made -- to obtain or attempt to obtain payments or property under any public assistance program to which the provider is not entitled through a false statement or representation, concealment of or failure to disclose any material fact, or by any other fraudulent scheme or device on behalf of the provider or others. Per Del. Code Ann. tit. 31, § 1007, a provider who knowingly violates this statute is guilty of a class A misdemeanor, but if the value of the public benefits or payments is at least \$500 but less than \$10,000 then the provider is guilty of a class E felony. If the value of the benefits or payments is \$10,000 or more, the violator is guilty of a class C felony. In addition, a provider convicted under this Chapter must make a full restitution to the state of unlawfully received money, goods or services, or the value of such goods or services, plus interest of 1.5% per month from the time that the provider received payment until the state is repaid. The provider will also be excluded from the Delaware Public Assistance Program. However, upon petition of the provider, where the community could be adversely affected by such exclusion, the Secretary of the Department of Health and Human Services may conduct a hearing to determine whether the provider’s continued participation in the program is in the best interests of the state or whether there is a need for a comparable provider to render the needed services.

[http://delcode.delaware.gov/title31/c010/index.shtml#P34\\_1332](http://delcode.delaware.gov/title31/c010/index.shtml#P34_1332)

#### **Del. Code Ann. tit. 31 § 1004 (Welfare)**

This statute prohibits a provider -- defined as a person who is enrolled and who provides the goods or services for which payment by a medical assistance program of the state is made -- from: (1) falsifying any report, statement or document that is required to be filed for any public assistance program;(2) including in any cost report or reports for reimbursement any amount or item which the provider knew or should have known was not used in providing service to the recipient; (3) making or causing to be made a statement or representation for use in qualifying as a provider of goods or service under any public assistance program, knowing that the statement or representation is false; or (4) making or causing to be made a false statement or representation of a material fact with respect to the conditions or operation of a provider or facility in order for the facility or provider to qualify or remain qualified to provide assistance. Per Del. Code Ann. tit. 31, § 1007, a provider who violates (1) above is guilty of a class A misdemeanor. A

provider who violates (3) or (4) above is guilty of a class E felony. A violation of (2) above is punishable as a class A misdemeanor unless the value of assistance benefits or payments is \$500 or more but less than \$10,000, in which case it is punishable as a class E felony, or the value of assistance benefits or payments is \$10,000 or more, in which case the crime is punishable as a class C felony. In addition, a provider convicted under this Chapter must make a full restitution to the state of unlawfully received money, goods or services, or the value of such goods or services, plus interest of 1.5% per month from the time that the provider received payment until the state is repaid. The provider will also be excluded from the Delaware Public Assistance Program. However, upon petition of the provider, where the community could be adversely affected by such exclusion, the Secretary of the Department of Health and Human Services may conduct a hearing to determine whether the provider's continued participation in the program is in the best interests of the state or whether there is a need for a comparable provider to render the needed services.

[http://delcode.delaware.gov/title31/c010/index.shtml#P43\\_1860](http://delcode.delaware.gov/title31/c010/index.shtml#P43_1860)

#### **Del. Code Ann. tit. 31, § 1006**

A provider -- defined as a person who is enrolled and who provides the goods or services for which payment by a medical assistance program of the state is made -- is prohibited from converting any benefit or payment received from any public assistance program for use other than the use and benefit for the named beneficiary in the application for assistance. Per Del. Code Ann. tit. 31, § 1007, a provider who commits such an act is guilty of at least a class A misdemeanor. However, if the value of the public assistance or payments is at least \$500 but less than \$10,000, the crime is punishable as a class E felony and if the value of the public assistance or payment is \$10,000 or more, the crime is punishable as a class C felony.

[http://delcode.delaware.gov/title31/c010/index.shtml#P79\\_5843](http://delcode.delaware.gov/title31/c010/index.shtml#P79_5843)

#### **Del. Code Ann. tit. 31 § 1008 (Welfare)**

A provider -- defined as a person who is enrolled and who provides the goods or services for which payment by a medical assistance program of the state is made -- who violates Sections 1003, 1004, or 1006 of the Delaware Code may also be liable for three times the amount of excess payments, a payment of \$2,000 in civil penalties for any deceptive claim or falsification, and any reasonable expenses incurred by the state in its enforcement efforts. These civil penalties may be brought against a provider even if the provider has not been criminally convicted, and they may be levied on a provider who has received benefits or payments to which the provider was not entitled even if the provider had no intent to violate Section 1005 or other sections in Chapter 10, Title 31 of the Delaware Code.

[http://delcode.delaware.gov/title31/c010/index.shtml#P101\\_7931](http://delcode.delaware.gov/title31/c010/index.shtml#P101_7931)

#### **Del. Code Ann. tit. 11 § 913A (Crimes and Criminal Procedure)**

A person is guilty of "health care fraud" when the person knowingly: (1) presents or causes to be presented any fraudulent health care claim to any health care benefit program; or (2) engages in a pattern of presenting or causing to be presented fraudulent health care claims to any health care benefit program. Except as provided hereinafter, health care fraud is a class G felony. Health care fraud is a class E felony if: (a) the intended loss to the health care benefit program is more than \$50,000 but less than \$100,000; (b) the offender is a health care provider at the time of the offense or offenses; or (c) the conduct constitutes a pattern of presenting or causing to be presented fraudulent health care claims. Health care fraud is a class C felony if: (a) the

intended loss to the health care benefit program is \$100,000 or more; or (b) the offender is a health care provider at the time of the offense or offenses and the conduct constitutes a pattern of presenting or causing to be presented fraudulent health care claims.

[http://delcode.delaware.gov/title11/c005/sc03/index.shtml#P1421\\_111458](http://delcode.delaware.gov/title11/c005/sc03/index.shtml#P1421_111458)

## **UNFAIR BUSINESS PRACTICES**

### **Del. Code Ann. tit. 6 § 2101 et. seq. (Commerce and Trade)**

Prohibits contracts, combinations, and conspiracies in restraint of trade.

[http://delcode.delaware.gov/title6/c021/index.shtml#P12\\_119](http://delcode.delaware.gov/title6/c021/index.shtml#P12_119)

### **Del. Code Ann. tit. 6 § 2504 (Commerce and Trade)**

Prohibits price discrimination in the sale of commodities.

[http://delcode.delaware.gov/title6/c025/sc01/index.shtml#P48\\_2311](http://delcode.delaware.gov/title6/c025/sc01/index.shtml#P48_2311)

### **Del. Code Ann. tit. 6 § 2513 (Commerce and Trade)**

Prohibits the use of deception, fraud, false pretense, false promise, misrepresentation, etc., in connection with the sale of any merchandise.

[http://delcode.delaware.gov/title6/c025/sc02/index.shtml#P45\\_2373](http://delcode.delaware.gov/title6/c025/sc02/index.shtml#P45_2373)

### **Del. Code Ann. tit. 6 § 2531 et. seq. (Commerce and Trade)**

Uniform Deceptive Trade Practices Act. Prohibits – and allows for injunctions against – deceptive trade practices, defined as when a person in the course of a business, vocation, or occupation: (1) Passes off goods or services as those of another; (2) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services; (3) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another; (4) Uses deceptive representations or designations of geographic origin in connection with goods or services; (5) Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have; (6) Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand ;(7) Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another; (8) Disparages the goods, services, or business of another by false or misleading representation of fact; (9) Advertises goods or services with intent not to sell them as advertised; (10) Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity; (11) Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of, price reductions; or (12) Engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

[http://delcode.delaware.gov/title6/c025/sc03/index.shtml#P15\\_194](http://delcode.delaware.gov/title6/c025/sc03/index.shtml#P15_194)

### **Del. Code Ann. tit. 6 § 5001B et. seq. (Commerce and Trade)**

Establishes express warranty requirements in the sale of “assistive technology devices”, defined as any item, piece of equipment, or product system that is designed and used to increase, maintain, or improve functional capabilities of individuals with disabilities.

[http://delcode.delaware.gov/title6/c050b/index.shtml#P12\\_227](http://delcode.delaware.gov/title6/c050b/index.shtml#P12_227)

## GENERAL WHISTLE-BLOWER PROTECTIONS

### **Del. Code Ann. tit. 19 § 1701 et. seq. (Labor)**

Delaware Whistleblowers' Protection Act. Applies to public and private employers, and states that an employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment: (1) Because the employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, a violation which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false; or (2) Because an employee participates or is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action, in connection with a violation as defined in this chapter; or (3) Because an employee refuses to commit or assist in the commission of a violation, as defined in this chapter; or (4) Because the employee reports verbally or in writing to the employer or to the employee's supervisor a violation, which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false. Provided, however that if the report is verbally made, the employee must establish by clear and convincing evidence that such report was made.

[http://delcode.delaware.gov/title19/c017/index.shtml#P11\\_107](http://delcode.delaware.gov/title19/c017/index.shtml#P11_107)

## HELPFUL LINKS

Delaware Attorney General

<http://attorneygeneral.delaware.gov/>

Delaware Health and Social Services

<http://www.dhss.delaware.gov/dhss/>

Delaware Health and Social Services, Division of Medicaid and Medical Assistance

<http://www.dhss.delaware.gov/dhss/dmma/index.html>

Delaware Medical Assistance Program

<http://www.dmap.state.de.us/home/index.html>

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