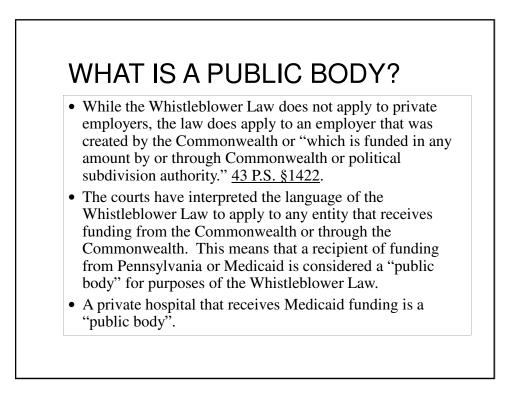
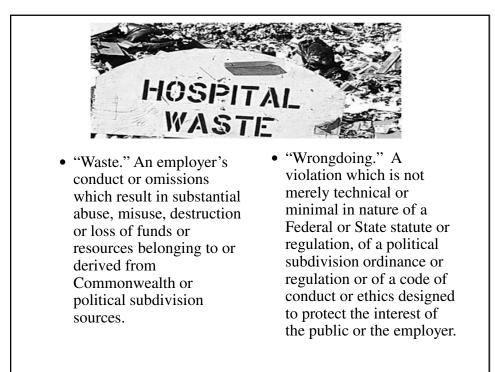


43 Pa.C.S. § § 1421-1428 "Whistleblower." A person who witnesses or has evidence of wrongdoing or waste while employed and who makes a good faith report of wrongdoing or waste, verbally or in writing, to one of the person's supervisors, to an agent of the employer or to an appropriate authority. No employer may discharge, threaten, discriminate or retaliate against an employee, or a person acting on behalf of the employee who makes a good faith report of wrongdoing or waste by a public body.

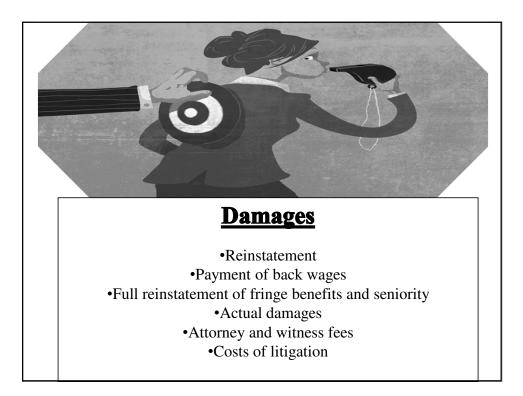


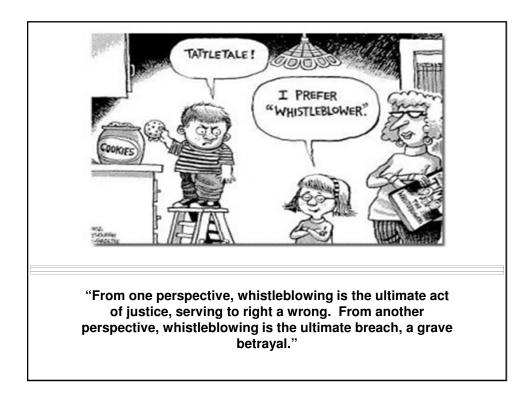




Statute of Limitations and Burdens of Proof

- 180 day statute of limitations.
- The employee must show that prior to the alleged reprisal, the employee or a person acting on behalf of the employee reported or was about to report in good faith an instance of wrongdoing or waste to the employer or an appropriate authority.
- The employer may rely on the defense that the action taken occurred for separate and legitimate reasons, which are not merely pretext.





PREVENTION

- A corporate culture that promotes internal criticism can be very effective in preventing external reports.
- It isn't enough to inform employees that whistle-blowing activity is protected from discrimination and retaliation. Instead, workers must see or feel that the words of protection are actually true and that protection actually exists.
- If the message, conveyed by words and deeds, is that internal criticism is a good thing that leads to a better company for everyone, loyalty is enhanced and the risk of reporting outside the company goes down significantly.

PREVENTION

- If an employee feels that his internal criticism of company or co-worker practices makes him look like a hero instead of a villain, he is much less likely to sue the company.
- If a lawsuit is filed, the defense may want to show that employees are expected to let the company know if something is amiss, i.e., reporting is not exceptional or heroic behavior.
- Companies should not only incorporate strong corporate policies that are well-publicized, but also train supervisors how best to encourage internal criticism.
- Supervisors must be trained to avoid retaliation against employees who criticize potential company wrongdoing or waste.



THE PARTIES	
• <u>Plaintiff</u>	• <u>Defendant</u>
Rose Reporter was an	Big Doc's Practice
administrative assistant	Group is a physician
in a physician office	practice. The practice is
group. She was	part of a health system.
employed by the group	The health system has a
for a number of years	corporate compliance
and had no disciplinary	section. The practice
history.	group receives Medicaid
	funds.

6

Facts

Rose was in charge of filing medical records, office correspondence and greeting patients.

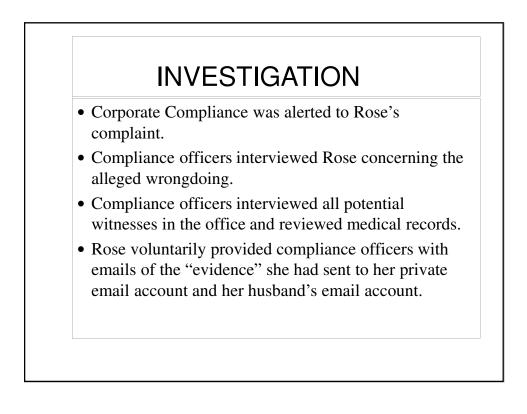
During her employment Rose noticed some irregularities in recorded vital signs while filing patient records.

Rose had no first-hand knowledge of whether the recorded vital signs were accurate, but she believed that some information was improperly altered by other office staff in violation of nursing regulations.

Rose believed the records were altered so that insurers would approve procedures, even if the necessary criteria for approval did not exist.

Rose beca	ame distrustful of her co-workers.
Rose repo	rted her concerns to her supervisor at the practice group.
•	visor passed the information along to the corporate compliance nt. Shortly thereafter, the supervisor took another job at a mployer.
	Rose was distrustful and insecure, she emailed "evidence" in f patient electronic health information to her private email.
Rose also	sent the emails to her husband's email account.





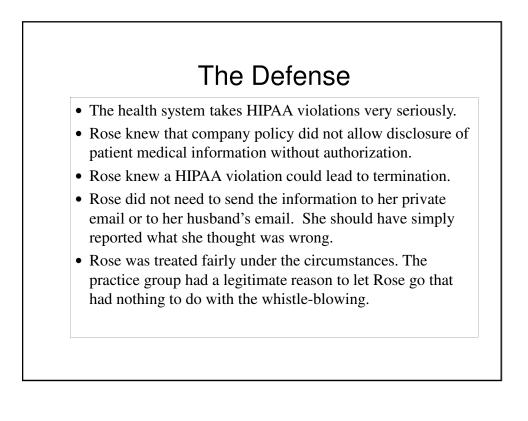
INVESTIGATION RESULTS

- Corporate compliance officers prepared a comprehensive report of their findings and recommendations.
- Compliance officers recommended policy and practice changes but did not identify any significant irregularities in the medical records.
- Compliance officers notified Rose that she had violated HIPAA regulations by sending protected health information to her home email and her husband's email.
- Human Resources became involved as HIPAA violations were grounds for discipline up to and including termination.



PLAINTIFF'S CASE

- Rose was just trying to do what was right.
- No good deed goes unpunished at Big Doc's.
- Rose felt she had no choice but to protect herself.
- Rose's husband never accessed any of the emails.
- No one was harmed except Rose.
- Rose was right that things were not being done correctly.
- Big Doc's excuse for firing Rose really was just pretext for getting rid of a whistleblower.
- Rose lost her job for reporting wrongdoing which she had been encouraged to report and about which she was assured there would be no retaliation.



Corporate Compliance Involvement

- Investigation
- Reporting of findings and recommendations
- Meetings with defense counsel after lawsuit is filed
- Turning over all emails, notes, documents, calendars, etc. to the lawyers
- Depositions (including preparation meetings)
- Trial preparation
- Trial testimony