

<b>STRONG MEMORIAL HOSPITAL POLICY MANUAL</b>	<b>DATE POSTED</b>
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**P O L I C Y**

**Policy**

At Strong Memorial Hospital, we are committed to following federal and state laws and regulations designed to prevent fraud or abuse of public health care funds. We expect all employees to assist us in maintaining high standards. Employees must be familiar and fully comply with federal and state laws which prohibit payments or financial incentives for referrals of patients (the federal and state Anti-Kickback and Stark Laws).

All business arrangements with referring physicians and other external health care providers must be documented in writing via a contract, reviewed and approved by in-house legal counsel.

**Patient Referrals:**

- Remuneration or incentives for referrals are illegal and will not be tolerated.
- No Medical Center employee is permitted to pay or offer any financial benefit to anyone- coworkers, physicians or other persons - for referral of patients.
- Similarly, the Medical Center does not accept any payment for referrals that we make. If an employee refers a patient to another provider and receives something of value (directly or indirectly) in exchange, it can be considered an illegal kickback.

**Financial Relationships with Physicians Not Employed by the Medical Center**

Per federal and state laws, all “financial” arrangements with any non-URMC healthcare entity must be based on a written contract. A financial arrangement may include the payment of money or other incentives, including providing free or low cost goods or services.

If the Medical Center has a financial arrangement with a non-employed (private) physician or groups without a written contract, we may be subject to large fines and penalties. We also will not be permitted to bill Medicare for any treatment we render to patients referred by those physicians and groups. Therefore, it is essential that all personnel work with the Office of Counsel to the Medical Center (OCMC) to put an appropriate contract in place. All contracts with private physicians and private medical groups must comply with the guidelines below.

- Financial relationships can include *payments for services or rental of space or equipment, providing a financial benefit or incentive of any kind to the referring physician or to their immediate family members, or even taking private physicians out to dinner or hosting a luncheon for the physician or his/her office staff.* Other examples include: gifts, loans, rebates, free or discounted services or payments of any kind.
- In many cases (contracts for services, real estate leases), certain specific requirements must be met before the Medical Center, department or division can enter into a business relationship with a private physician or group practice.
  - There must be a written agreement in place between the parties before the business relationship begins.
  - The amount paid must be consistent with fair market value and not based on the volume or value of referrals between the parties.

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- The following are types of arrangements with private physicians which require compliance with the Stark law (this is not an inclusive list, other arrangements with private physicians may also implicate the Stark law):
  - Contracts/payments for on-call services.
  - Leases for space or equipment (on a part-time or full time basis) from a private physician.
  - Hiring a private physician to provide services (including payments for preceptorships, medical director services or clinical services provided to URM).C).
  - Sale of a physician practice to URM).C).
  - Payments of any type to private physicians or group practices.
  - License of software (e.g. electronic medical record) or provision of information technology (IT) services from URM).C) to private physicians or group practices.
- Contracts with private physicians or private practices must be reviewed regularly to ensure that both parties are fulfilling their obligations. No payments should be made unless the contracted services have been provided. If the need for the services ends, the contract should be terminated. The same rule applies to space leases-if a department or division is no longer using the space leased from a private physician, the lease should be terminated. Real Estate Services or the Office of Counsel can assist.
- The Stark law is a strict liability statute. This means that if the Medical Center does not comply with these rules, even if non-compliance is inadvertent or unintentional, stiff financial penalties can apply. The Medical Center could have to repay all monies received for inpatient or outpatient services rendered to patients referred by the physician, plus double or triple damages. Other significant financial penalties and/or hospital exclusion from the Medicare program is also possible. Penalties for failing to comply with the Stark law have ranged from a few thousand dollars to millions of dollars.

**Professional Courtesy or Discounting:**

- Federal guidelines permit a provider to discount fees for services only when the patient is in financial need; otherwise, discounting can be seen as a means of encouraging referrals or other benefits. Reasonable efforts must always be made to collect coinsurance or deductible amounts. If a good faith effort has resulted in a determination of financial need, both the efforts made and the basis for this conclusion must be documented.
- The Medical Center (including Strong Memorial Hospital) does not permit certain forms of professional courtesy such as the routine waiving of professional fees including coinsurance or deductible amounts (e.g., billing “insurance only”).

Activities which are (or appear to be) in violation of this policy should be immediately reported to the Compliance Office through the Strong Health Integrity Hotline, 756-8888.

For more information on compliance with the federal Anti-Kickback and Physician Referral (Stark) laws, employees can contact the Compliance Office or refer to the URM).C) Compliance Program Policy Manual (<http://www.urmc.rochester.edu/urmc/compliance/manual.html>).

**References:**

- 42 U.S.C Section 1395nn
- 42 Code of Federal Regulations Parts 411 and 424

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New York State Public Health Law §238  
42 U.S.C Section 1320a-7b  
42 Code of Federal Regulations § 1003.102  
NYS Social Services Law §366-d

**History:**

- 3/06 Drafted by Office of Counsel
- 6/06 Approved by Policy Management Team
- 8/06 Reviewed by SMH Management Team
- 2/10 Reviewed and approved by Policy Management Team
- 3/10 Reviewed and approved by Clinical Council
- 1/14 Revised by Office of Counsel and name changed from “Patient Referrals and Professional Courtesy” to “Compliance with the Stark and Anti-Kickback Laws”
- 2/14 Reviewed and approved by Policy Management Team
- 3/14 Reviewed and approved by Clinical Council