I. POLICY STATEMENT

It shall be the policy of the University of Michigan Health System (UMHS) that UMHS Employees (as defined herein) and Contractors (as defined herein) shall report known or suspected violations of the Anti-Kickback Statute.

II. POLICY PURPOSE

The purpose of this policy is to educate UMHS Employees and Contractors about the scope of the federal Anti-Kickback Statute and to establish the procedures for reporting any known or suspected violations thereof.

Section 1128(b) of the Social Security Act, commonly referred to as the "Anti-Kickback Statute", provides for civil and/or criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration in order to induce referrals of items or services covered, in whole or in part, by Medicare, Medicaid, or any other federally funded health care program. An offense is classified as a felony, with each violation punishable by a fine of up to $25,000 and/or imprisonment for up to five (5) years. Violation of the Anti-Kickback Statute could also result in exclusion from government health care programs. The Anti-Kickback Statute also subjects offerees who accept illegal remuneration under the Anti-Kickback Statute to civil and criminal penalties.

The types of conduct and remuneration covered by the Anti-Kickback Statute include kickbacks, bribes, and rebates from providers to others in exchange for patient referrals. The Anti-Kickback Statute proscribes any such remuneration whether made directly or indirectly, overtly or covertly, or in cash or in kind. Moreover, prohibited conduct includes not only remuneration intended to induce referrals, but remuneration intended to induce the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by the Medicare and Medicaid programs.

An example of a prohibited kickback scheme would be the payment by a drug company to a hospital employee or contractor that encourages, induces, or compensates the hospital employee or contractor for prescribing or using a particular drug.

In addition to the federal Anti-Kickback Statute, the State of Michigan has also enacted various provisions that prohibit kickbacks and bribes in connection with furnishing services for which payment is to be made by the State of Michigan and/or other insurance programs, including...
Medicaid. For purposes of this policy, any reference to the "Anti-Kickback Statute" is deemed to be inclusive of any applicable federal or state law provisions.

All UMHS Employees and Contractors shall report known or suspected violations of the Anti-Kickback Statute through the process defined herein.

III. DEFINITIONS

Contractors - Persons who are contracted to perform work on behalf of UMHS.

Employees - For the purposes of this policy, "employee" refers to faculty, house officers, fellows, and staff of UMHS.

Remuneration - Any type of direct or indirect payment, bribe, rebate, or other type of inducement. The term includes not only remuneration intended to induce referrals, but remuneration intended to induce the purchase, lease, ordering of or arranging for any type of item or service covered in whole or in part by Medicare, Medicaid, or any other federally funded health care program.

IV. POLICY STANDARDS

A. All UMHS Employees and Contractors are subject to the provisions and the reporting requirements of this policy.

B. All medical, business, and legal activities performed by UMHS Employees and Contractors are subject to the provisions and the reporting requirements of this policy.

C. All UMHS Employees and Contractors shall report known or suspected violations of the Anti-Kickback Statute in accordance with the requirements and procedures of this policy.

1. The Employee's or Contractor's first option is to report his/her concerns to his/her supervisor or to another member of management.

2. If the Employee or Contractor is uncomfortable with that direct approach, or if the issues have not been resolved satisfactorily, the Employee or Contractor should report the situation to the UMHS Compliance Officer (CO) or his/her designee in accordance with the procedure below.

D. Employees and Contractors reporting known or suspected violations of the Anti-Kickback Statute are protected from retaliation for such reporting. If an Employee or Contractor believes that he/she has been retaliated against, he/she should contact the UMHS Compliance Officer (CO) or his/her designee immediately.
V. PROCEDURE ACTIONS

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<tr>
<th>Responsible Party</th>
<th>Action</th>
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<tr>
<td>Employee or Contractor</td>
<td>Report concerns to a supervisor or another member of management. As an alternative, call or email the UMHS Compliance Office at 734-615-4400 and <a href="mailto:Compliance-Group@med.umich.edu">Compliance-Group@med.umich.edu</a>, respectively, call the Compliance Hotline at (888) 296-2481 or submit an online report. In the report, describe the situation completely including dates, names, facilities and/or departments involved and the names of other UMHS Employees/Contractors who could provide additional information. The reporting Employee/Contractor may request to remain anonymous; however, while anonymity can be maintained, this might result in an incomplete investigation.</td>
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<td>CO or Designee</td>
<td>1. Review the report.</td>
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<td>2. Contact the reporter for clarification or additional information.</td>
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<td>3. Consult with OCG to identify whether any protections and/or special procedures are necessary for further investigation, including attorney-client privilege.</td>
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<td>4. Assign the report to the appropriate department to initiate an inquiry or investigation, as appropriate.</td>
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<td>5. Determine or be advised of recommended corrective action. If a violation of the Anti-Kickback Statute is confirmed following an investigation, consult with OGC to determine reporting obligations and identify any associated overpayment liability.</td>
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<td>6. Implement or be apprised of the implementation of the correction action.</td>
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<td>7. Monitor the effectiveness of the corrective action.</td>
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<td>8. Ensure that the appropriate employees are educated in the violation and the corrective action, as appropriate, to prevent recurrence of the violation.</td>
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9. Keep the reporting employee/contractor informed of the status of the complaint, as appropriate.

10. Oversee the status of all compliance complaints by obtaining monthly reports from the appropriate departments/personnel assigned to the investigation and/or corrective action.

11. Report confirmed violations to the UMHS Compliance Office. The UMHS Compliance Office will escalate to leadership as appropriate.

VI. REFERENCES

United States Code: 42 USC 1320a-7b (The Anti-kickback Statute)
Code of Federal Regulations (CFR) - 42 CFR Parts 411 and 424
Office of Inspector General (OIG) Advisory Opinions
UMHS Compliance FAQ: "Providing Free or Discounted Continuing Medical Education (CME) to Partner Providers"

Author: Health System OCG; UMHS Corporate Compliance Committee

Approved by: Executive Vice President for Medical Affairs, September 8, 2000

Reviewed by: UMHS Compliance Office - August, 2005 - no changes required; September 29, 2015 - technical changes not requiring leadership approval

Revised and Approved by: UMHS OGC, UMHS Compliance Office - February 2010; September 29, 2015