

Q What are “kickbacks?”

A Kickbacks are gifts, gratuities, incentives or anything of monetary or other value given with the intent, expectation or understanding that an individual will make referrals to us or be rewarded for past referrals. In addition to cash and cash equivalents (for example, gift certificates or gift cards), examples of prohibited activity or items of value include:

- Free supplies, space, personnel or equipment.
- Free trips, lodging and food (in excess of what is allowed by CommonSpirit policy).
- Discounts or account adjustments or write offs (other than those defined in the charity care or other discount policies).

Q What types of arrangements are inappropriate to offer physicians and may be considered a kickback?

A Examples include:

- Anything of value given with an expectation of future referrals or as a reward for past referrals.
- Providing office space at less than fair market value.



- Providing items or services free of charge or at less than fair market value (for example, hazardous waste disposal service).
- Writing off a physician's bill or recruitment loan.

Q Dr. Jones occasionally sends patients to our hospital. He said he would send us more patients if we provide him with free or discounted office space. Can we do this?

A No. We must charge the physician fair market value for office space. Free or discounted lease arrangements may appear to be an incentive for referrals from the physician.

Antitrust and Trade Regulations

CommonSpirit does not participate in activities that illegally reduce or eliminate competition, control prices, allocate markets or exclude competitors.

- The purpose of antitrust and trade regulations is to protect the public, CommonSpirit and other companies from unfair trade practices. These laws promote competition and preserve the free enterprise system. Employees are expected to strictly comply with all applicable federal and state antitrust regulations.
- Because antitrust matters can only be analyzed on a very fact-specific basis, the CommonSpirit Legal Team must be consulted in advance on each occasion where the collective activity or decision making will occur that may involve antitrust issues.

Antitrust Rules to Live By

- Do not engage in price fixing, bid rigging or allocation of customers or markets.
 - Price fixing is an agreement between organizations about the prices one or both will charge others for goods or services.
 - Bid rigging is an agreement between organizations about who will or will not bid.
 - Customer allocation is an agreement between organizations or individuals to divide customers, patients or other business among themselves.
- Do not discuss with any competitor:
 - Prices, terms or conditions of sales.
 - Where CommonSpirit intends to sell or bid.
 - To whom CommonSpirit intends to sell or bid.
 - Whether, or at what price, CommonSpirit intends to sell or bid.
- If any representative of a competitor attempts to discuss any of these subjects with you, terminate the conversation immediately and report it to your manager.
- Do not engage in activities such as bribery, stealing, improperly using competitor trade secrets, deceptive or similar unfair practices or intimidating or threatening customers or suppliers.

Coding and Billing

Federal and state laws control third-party billing for patients, residents, members and others in our care. CommonSpirit submits accurate, complete and timely claims for payment. CommonSpirit could be required to refund payments for filing inaccurate or fraudulent claims, and CommonSpirit and its employees could be subject to criminal prosecution.

Clinical, health information management, billing or coding employees and others responsible for creating charges must:

- Ensure their work is accurate, completed timely, and complies with policies and federal and state laws and regulations.
- Bill only for services provided and appropriately documented, using accurate billing and diagnosis codes.
- Immediately notify a manager, a local Corporate Responsibility Officer or the CommonSpirit Corporate Responsibility Officer, of inaccuracies so they can be corrected.
- Retain billing and medical record data as required by law and the organization's record retention policies.

It is the policy of CommonSpirit to provide and bill for reasonable and necessary services for the diagnosis or treatment of an illness or injury, in the most appropriate location, ordered by a physician or other health care provider.

Q If documentation is not available when we are ready to submit a bill, is it okay to submit the bill?

A No. Do not submit the bill until appropriate documentation is on file. This verifies the services were provided to the patient.

Q Can we perform services for patients who are not registered in our patient registration system?

A No. All services must be documented and appropriately billed, so all patients must be registered.

Copyrighted, Trademarked or Licensed Material

Employees must not copy documents or computer programs in violation of applicable copyright laws or licensing agreements. Employees must not use confidential business information improperly obtained from competitors, or which is otherwise in violation of a covenant not to compete, a prior employment agreement, or other contracts.

Emergency Medical Treatment and Labor Act

CommonSpirit requires all entities to comply with the Emergency Medical Treatment and Labor Act (EMTALA), sometimes called the "Anti-Dumping Law." Numerous states have also enacted similar laws, some of which are more stringent than the federal law. Consistent with our commitment to the poor and underserved, any person regardless of his/her ability to pay, is provided an appropriate medical screening examination to determine whether

an emergency medical condition exists; or, for pregnant women, if active labor exists. Appropriate stabilizing treatment is provided within the capability of the staff and the health care entity for patients determined to have an emergency medical condition. EMTALA also applies when the need for emergency care is apparent or requested by an individual on the hospital's property outside of the dedicated emergency department.

CommonSpirit organizations may not delay medical screening examinations or stabilization to obtain financial or demographic information from the patient. CommonSpirit organizations may only transfer unstable patients with an emergency medical condition to another health care entity if:

1. The patient requests the transfer and has been informed of the hospital's obligations and the risks and benefits of transfer.
2. A physician certifies the medical benefits provided at another entity are reasonably expected to outweigh the increased risks involved with the transfer.

Q Does the EMTALA law permit us to register an individual who comes into our emergency department before we perform a medical screening examination and stabilization procedures?

A You may follow reasonable registration procedures to register an individual first only if the process does not:

1. Delay the medical screening examination and any necessary stabilizing treatment.
2. Include questions about the individual's method of payment or ability to pay.

You may ask the individual if he/she has insurance and the name of the carrier, provided the questions do not delay screening or treatment. Reasonable registration processes should not discourage the individual from remaining in the emergency department for further evaluation. CommonSpirit organizations shall not request prior authorization from the individual's insurance company or managed care plan before completing a medical screening examination or beginning stabilization treatment.

Excluded Providers

The federal government prohibits payment for services provided by an individual or entity that the government has excluded from participating in a federally funded health care program. We do not knowingly employ, conduct business with or contract with excluded providers. CommonSpirit conducts pre-employment, pre-contracting, pre-credentialing and ongoing excluded provider status checks on individuals, providers and entities associated with us. Any relationship with an employee, individual or entity found to be an excluded provider will be terminated.



False Claims Act

The Law

The federal False Claims Act (31 USC 3729–33) makes it a crime for any person or organization to knowingly make a false record or file a false claim with the government for payment.

“Knowingly” means the person or organization:

- Knows the record or claim is false.
- Seeks payment while ignoring whether the record or claim is false.
- Seeks payment recklessly without due care of whether the record or claim is false.

Under certain circumstances, an inaccurate Medicare, Medicaid, Veterans Affairs, Federal Employee Health Plan or Workers’ Compensation claim could allege to be a false claim. Examples of possible false claims include knowingly billing Medicare for services not provided or not ordered by a physician, or for services provided at sub-standard quality.

Examples of potential false claims include:

- Billing for services not provided.
- Billing for services provided, but not medically necessary.
- Submitting inaccurate or misleading claims about the type or level of services provided.
- Making false statements to obtain payments for products or services.
- Failing to repay the federal or state government for an identified overpayment.

A person who has information regarding improper or false claims submitted for payment to the government may file a lawsuit in federal court on behalf of the government (“Qui Tam” or “Whistleblower Claim”) and, in some cases, receive a percentage of any recoupment received by the government for bringing original information about a violation to the government’s attention. There are also state laws allowing a similar lawsuit in state court if a false claim is filed with the state for payment, such as under Medicaid or workers’ compensation. Penalties

are severe for violating the federal False Claims Act. The penalty can be up to three times the value of the false claim plus fines currently from \$12,537 – \$25,076 per claim.

Whistleblower Protection

The federal False Claims Act protects anyone who files a false claim lawsuit from being fired, demoted, threatened or harassed by their employer for filing the suit. Employees who believe they have been retaliated against by their employer for filing a false claims lawsuit may file a lawsuit against their employer in federal court. If the employer is found to have retaliated, the court can order the employer to re-hire the employee, and to pay the employee twice the amount of back pay owed, plus interest and attorney's fees.

CommonSpirit Corporate Responsibility Policies

CommonSpirit is committed to honest and ethical conduct. CommonSpirit's Corporate Responsibility Program includes policies and procedures for detecting and preventing fraud, waste, and abuse – including false claims. Additionally, the program includes employee education; a disclosure program, including a hotline; monitoring and auditing systems; and prompt correction of identified problems. Key points of the CommonSpirit Corporate Responsibility Program include the following:

- The policies exist to detect and prevent fraud, waste and abuse.
- CommonSpirit recognizes integrity is integral to all facets of its business dealings, and certain business standards can be universally applied.
- While ethical business behavior may seem obvious, situations sometimes arise in which the proper course of conduct may not be clear.

Physician Arrangements

CommonSpirit maintains relationships with physicians in compliance with applicable state and federal laws and may enter into employment or other arrangements with physicians to ensure access to care for our patients. We have developed policies that provide an efficient framework to transact business with physicians in compliance with those laws.

- CommonSpirit is committed to maintaining positive working relationships with physicians.
- CommonSpirit is committed to providing a medical staff privileging process using professional criteria in a fair, prompt and reasonable manner, without discrimination on the basis of race, color, national origin, ancestry, sex, pregnancy, childbirth or related medical condition, marital status, religion, creed, physical/mental disability, medical condition, age, gender identity, sexual orientation, citizenship, payer source or ability to pay or any other protected categories as defined by law.
- All agreements involving payments or other compensation between CommonSpirit or CommonSpirit facilities and physicians and physician-owned entities are to comply with the policies and applicable law. The following requirements are a summary of the material, but not of the complete requirements, for many physician arrangements under the policies:

- The written agreement is prepared by the CommonSpirit Legal Team and signed by both the CommonSpirit entity and physician prior to the services being rendered or payment exchanged.
- The agreement identifies the correct legal name and tax payer I.D. number of the physician or physician entity and payments may only be made to the specified party to the agreement.
- Compensation is determined in advance and fixed for at least one year.
- Fair market value of the compensation to be paid is documented in a form and format consistent with the policies.
- Services to be provided and the compensation to be paid are clearly described in the agreement.
- The arrangement does not take into account the value or volume of referrals.
- Documentation sufficient to demonstrate the services were performed as required under the agreement must be submitted by the physician/physician entity prior to the provision of payments under the agreement.
- Changes to the agreement must be documented in writing and may not be effective until the writing is signed by all parties.

Additional guidance will be provided in the policies for managed care, physician recruitment and other types of physician arrangements. For any questions regarding physician arrangements you should contact your Legal Team attorney for guidance before proceeding.

Physician Self-Referral Law (Stark Law)

The Stark Law prohibits a physician from referring Medicare patients to a health care provider if the physician (or an immediate family member of the physician) and provider have any type of financial arrangement. However, referrals are permitted if the financial relationship is structured to comply with certain exceptions to the Stark Law.

If the arrangement does not fully comply with an exception, the provider cannot bill for designated health services ordered or referred by the physician.

The Stark Law is complex and numerous exceptions exist. Many states have laws similar to the Stark Law.

Unlike the federal Anti-Kickback Statute, which requires that one of the parties intends to reward or induce health care referrals, the Stark Law is a “strict liability” statute. This means even unintentional violations of the Stark Law may have significant financial penalties. If you have any questions about whether an arrangement with a physician is compliant with the Stark Law, you should contact your local Corporate Responsibility Officer or Legal Team attorney for guidance.

Q A physician provides medical director services to our hospital and is paid for these services. Under the Stark Law, does this result in a financial relationship?

A Yes. For purposes of the Stark Law, a financial relationship occurs whenever anything of economic value is transferred between a hospital and a physician (or a physician’s immediate family members). Thus, if the physician refers any Medicare patients to

the hospital for services, payment for medical director services would be permissible provided it meets the personal services exception under the Stark Law.

Q Who qualifies as an “immediate family member” under the Stark Law?

A The term “immediate family member” is defined broadly to mean husband or wife; birth or adoptive parent, child or sibling; stepparent, stepchild, stepbrother or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

Research

CommonSpirit is committed to high standards of ethics and integrity when engaging in research. Any dishonesty, misconduct, fraud, or harm to research subjects may damage the reputation and credibility of researchers, the scientific community at large, and CommonSpirit organizations. Researchers must be knowledgeable about applicable laws and regulations and CommonSpirit policies and procedures relating to research compliance.

Grant and Contract Management

CommonSpirit may receive money in the form of grants and contracts to conduct specific research studies. The grant/contract awarding organization may be a state or federal government agency or a non-profit or for-profit company. Effective grant/contract management requires CommonSpirit to demonstrate accountability with sponsor’s funds and comply with specific terms and conditions of contracts and grants. Proper processes must be in place to ensure compliance with all federal, state, and agency rules and regulations as well as CommonSpirit policies and procedures related to research and grant management. Understanding these requirements prior to accepting an award is also important because this information as well as additional approvals may be necessary for the application and award acceptance processes. Contact your Research Institute/Center or the Research Corporate Responsibility Officer if you have any questions related to these requirements.

Human Subjects Research

All human subjects research at CommonSpirit shall have Institutional Review Board (IRB) approval or determination of exemption from IRB oversight. The IRBs also perform Privacy Board responsibilities as required under HIPAA. It is important to determine if a project is classified as research or another activity, such as performance improvement, quality assurance or program evaluation. Contact your Research Institute/Center to learn more about your designated IRB review and approval processes.

Data Research and Biorepositories

Human subjects research includes obtaining information or biospecimens through intervention or interaction with an individual and using, studying or analyzing the information or biospecimens; or obtaining, using, studying, analyzing or generating identifiable private information or identifiable biospecimens. IRB approval is required for creation of a biorepository or database if one purpose of the biorepository/database is for research, even if it is not the primary purpose. Individuals shall obtain IRB approval or a determination of



exemption from IRB oversight before accessing any tissue or other biospecimens; or data including patient information for systematic analysis. For additional information on data research or biorepositories, contact your Research Institute/Center.

Clinical Research Billing Compliance

Clinical research tests and procedures may be paid for by the sponsor of the study or may be reimbursable by a federal, state or private payer subject to coverage criteria. Determining how each research test and procedure will be paid and accurately communicating the coverage to the research subject and billing departments is essential to ensure accurate billing occurs. For questions or assistance with research billing, contact your Research Institute/Center or the Research Corporate Responsibility Officer.

Animal Subjects Research

All vertebrate animal research shall be approved by a CommonSpirit-designated Institutional Animal Care and Use Committee (IACUC). Researchers are responsible for proper animal care and handling of animals used in their studies, in accordance with applicable federal and state regulations, and CommonSpirit policies and procedures. Contact your Research Institute/Center to learn more about your designated IACUC review and approval processes.

Conflict of Interest Management

Potential conflicts of interest shall be identified and managed to promote objectivity and eliminate bias or the appearance of bias in research. A research conflict of interest may exist when a researcher's personal financial, intellectual or equity interest could directly and

significantly affect the design, conduct or reporting of the research. Researchers shall report personal interests related to their institutional responsibilities as required by federal and state regulations, and CommonSpirit policies and procedures. Contact your Research Institute/Center or the Research Corporate Responsibility Officer to learn more about the disclosure and management of possible conflicts of interest.

Research Misconduct

Federal regulations prohibit misconduct in research, which includes intentional fabrication, falsification, or plagiarism in proposing, conducting, reviewing or reporting research results. Honest errors or differences of opinion do not constitute research misconduct. Formal research misconduct inquiry and investigation procedures are followed to determine if research misconduct occurred and protect the rights of all individuals involved. Anyone who suspects research misconduct should immediately contact the Research Corporate Responsibility Officer to discuss his/her concerns.

Q A physician approached me about using patient information from the electronic health record for a research study. Who should I contact about the study?

A All human subject research must be approved by a CommonSpirit-designated IRB. Contact your Research Institute/Center for information about IRB application and approval processes.

Q What if I am unsure of how the billing should be handled for a particular clinical research study?

A Contact your Research Institute/Center or the Research Compliance Corporate Responsibility Officer for information.

Tax-Exempt Status

CommonSpirit and most of its related organizations are nonprofit, tax-exempt and operated solely for religious and charitable purposes. This status provides CommonSpirit certain benefits. To maintain our tax-exempt status, we must use our resources to further the religious and charitable purposes of our mission in supporting healthy communities. Tax laws prohibit our tax-exempt organizations from:

- Providing goods, services, leases, compensation or other benefits to organizational insiders (such as an officer, director, key employee or physician) without receiving equivalent value in return. Some examples include:
 - Paying more than fair market value for services, products or leases.
 - Providing courtesy discounts and other uncompensated benefits to physicians, officers, directors and trustees, other than those provided for by organizational policy.
 - Accepting research grants from third parties when the researcher keeps the funds for personal use or the CommonSpirit organization is not paid for the use of its time, equipment, or facilities in connection with the research.

- Subject to certain exceptions, providing goods, services, leases, compensation or other benefits to a third party (who is not an insider) without receiving equivalent benefit in return. Some examples include:
 - Taking part in a joint venture, partnership or similar transaction that results in an improper private benefit (gain) to a third party.
 - Recruiting physicians or other key employees with incentives or compensation plans in excess of fair market value or that do not serve an identified community need.
 - Leasing a facility to a third party at less than fair market value.
 - Providing services to a third party at less than fair market value, such as billing services to private physicians or providing health care services at less than fair market value, except where permitted by CommonSpirit's charity, prompt pay or other discount policies.
 - Permitting any person to buy, sell, lease or use organizational property at less than fair market value.
 - Use of tax-exempt space for private practice or for-profit purposes.

Corporate Responsibility Support and Other Resources

Reporting Concerns

As an organization and as individuals, we are responsible for promptly reporting potential violations of law, regulation, policy or procedure. You are protected from retaliation if you make a good-faith report, complaint or inquiry. The CommonSpirit reporting process is described below.

CommonSpirit Reporting Process:

1. Speak with your supervisor or another manager.
2. If the supervisor/manager is not available, or you are not comfortable speaking with him/her, or you believe the matter has not been adequately resolved, contact your Human Resources representative or your local Corporate Responsibility Officer.
3. If you want to anonymously report a concern to a neutral third party, you have two options:
 - Call the reporting hotline number: **1.800.845.4310**
 - File your report using the Internet:
<https://compliancehotline.commonspirit.org>

The confidential option described in #3 above is available 24 hours a day, seven days a week. Reports made by phone or the Internet are received by trained staff who document and forward information to your local or CommonSpirit Corporate Responsibility Officer for appropriate action. These reports are not traced or recorded. You may remain anonymous

if you wish. If you choose to identify yourself, there is no guarantee your identity will remain confidential. However, when you identify yourself, it is easier for Corporate Responsibility staff to respond. Retaliation against any employee who, in good faith, reports potential or suspected violations is unlawful and will not be tolerated.

Failure to Act

All persons associated with CommonSpirit must act in a manner consistent with our mission, values, policies, and the *Reference Guide*. We are subject to serious consequences if we fail to comply with laws, regulations, and organizational policies and procedures.

The consequences to CommonSpirit may include risks to the safety of those we serve, refund of payments from government programs, civil or criminal liability, exclusion from federal payment programs, and loss of tax-exempt status. Individuals may also be subject to disciplinary action, including suspension or termination of employment, termination of a contractual relationship or removal from office or board membership. Individuals may also be held criminally liable, prosecuted and subject to substantial fines.

Resources

Contact your local Corporate Responsibility Officer or other personnel when you have questions regarding our *Reference Guide* or organizational policies. The list below summarizes the types of concerns typically addressed by specific personnel within CommonSpirit. If your concern is not listed below, contact your local Corporate Responsibility Officer for assistance.

Types of Issues Addressed by the Corporate Responsibility Officer (may involve coordination with Legal Services in the application and interpretation of laws and regulations)

- Corporate Responsibility Program orientation, education, and training
- EMTALA
- Stark Law
- Anti-kickback statute
- Antitrust compliance
- False Claims Act
- Tax-exempt status
- Billing issues
- Improper or incorrect documentation for billing
- Non-compliance with the *Reference Guide* and/or other policies and procedures adopted as part of the Corporate Responsibility Program
- Falsification of records
- Fraudulent activities
- Conflicts of interest
- Potential or actual disclosures of confidential information, including privacy and/or security breaches
- Misuse of assets
- Americans with Disabilities Act issues (patient related)
- Compensation arrangements related to a contract
- Contractual relationships potentially involving referrals of patients or residents
- Medically unnecessary services provided to patients, residents, members, or other individuals in our care
- Other activities that may violate federal, state, or local laws, statutes, regulations, guidelines or rules that govern the health care industry
- Inappropriate use of social media

Types of Issues Addressed by Safety Personnel

- Occupational Safety and Health Administration (OSHA) issues
- Ergonomics
- Workplace safety
- Workplace violence

Types of Issues Addressed by Human Resources Personnel

- Employee Retirement Income Security Act (ERISA)
- Sexual, racial or other harassment
- Equal Employment Opportunity issues
- Staff rights
- Unemployment
- Employment practices
- Employee disputes/grievances
- Americans with Disabilities Act (ADA) issues (employee related)
- Illegal or abusive alcohol or drug use
- Labor relations/unions
- Workers' Compensation issues and medical disability
- Weapons and violence in the workplace
- Gambling in the workplace
- Unexcused absences or repeated tardiness
- Compensation
- Employee benefits
- Family and Medical Leave Act
- Uniformed Services Employment and Reemployment Rights Act (USERRA)

Types of Issues Addressed by Ethics Resources, Risk Management, Nursing, or Pastoral Care

- Advance Directives
- Disrespect of patients, residents, members or others we serve
- End of life issues
- Patient rights
- Ethical and Religious Directives
- Statement of Common Values
- Patient grievances
- Clinical issues/quality of care concerns

Acknowledgment and Certification

I acknowledge I have received an electronic or physical copy of the CommonSpirit *Standards of Conduct: Our Values in Action Policy and Reference Guide* (herein referred to as *Reference Guide*), and I agree to read it completely. I also agree to discuss any questions or concerns regarding this *Reference Guide* with my supervisor or other appropriate CommonSpirit leader. I certify that I will comply with the *Reference Guide* standards and guidelines and any other standards or policies set by CommonSpirit or the organization I serve that apply to me in my role throughout my association with CommonSpirit. I understand it is my responsibility to report any concerns regarding possible violations of these standards, guidelines or policies.

I also understand I may be asked to cooperate in an investigation of matters that may affect or relate to compliance with applicable standards, guidelines or policies and agree to do so when asked. Furthermore, I understand neither CommonSpirit nor the local organization I serve will retaliate against me for making a report in good faith.

I understand CommonSpirit or its organizations will conduct an excluded provider background check prior to my employment or association and periodically thereafter. I understand CommonSpirit reserves the right to terminate my employment or other association if I am an excluded provider/individual.

I understand the *Reference Guide* contains standards for behavior within CommonSpirit and is not a contract for employment or other services. I also understand these standards may be amended, modified or clarified at any time, and I will receive periodic updates to these standards.

PLEASE PRINT

Name

Department, Board, Board Committee or Other Affiliation

Organization

Signature

Date

Your acknowledgment and certification as stated above will be collected and retained electronically as a part of your education transcript. In certain circumstances, you may be asked to complete the above certification, detach this card and submit it to your training facilitator or your local Corporate Responsibility Officer as documentation of your acknowledgment and certification. Consult with Human Resources or your local Corporate Responsibility Officer if you have any questions about this process.

Conclusion

Our core values and standards of conduct serve as guiding principles for ethical behavior as found in the *Standards of Conduct: Our Values in Action Policy and Reference Guide*. It is our responsibility to understand and follow these standards of conduct. Contact your manager, Corporate Responsibility Officer or the reporting hotline with questions or concerns. No retaliatory action will be taken against anyone who makes a good-faith report of a potential violation of the standards, guidelines and polices outlined in the *Standards of Conduct: Our Values in Action Policy and Reference Guide*.

Please become familiar with the standards of conduct defined in this *Reference Guide*. By promoting our values and ethics, we can strengthen our organization and live out the mission of CommonSpirit.

