


## Erlanger Health System Policy and Procedure

Origination Date: Feb. 20, 2006		
Approval: _____		
Reviewed Date:	Revised Date: <b>8/2010</b>	Approval: 
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**Index Title:** Compliance with the Anti-Kickback Statute and Stark Law

**Originating Department:** Office of Compliance

**Number:** 8316.980

**Description for EHS Intranet:** To ensure compliance with the Anti-Kickback Statute and Stark Law

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### Policy statement:

In order to provide quality health care to members of the community, Erlanger employs and conducts business with a number of different physicians. Certain federal laws and regulations, such as the Anti-Kickback Statute and the Stark Law, govern Erlanger's relationships with individuals (including, but not limited to, physicians) and entities that refer patients to Erlanger-affiliated facilities or otherwise generate business for Erlanger. Erlanger is committed to complying with all applicable laws in its relationships with potential referral sources (including but not limited to the Stark Law and the Anti-Kickback Statute), maintaining the highest ethical standards, and ensuring that the physicians practicing at Erlanger's facilities also adhere to the highest ethical standards.

### Scope:

All employees, officers, trustees, medical staff and agents of Erlanger Health System or any of its wholly-owned subsidiaries or affiliates (collectively referred to as "EHS Personnel").

### Definitions:

**Agents.** Those individuals or entities that have contracted with or volunteer at Erlanger to provide health care related services, equipment or other items or services, including, but not limited to, residents, medical students, independent contractors, consultants, volunteers and vendors.

**Stark Law.** The federal physician self-referral law (commonly referred to as the "Stark Law" or "Stark") specifies the circumstances under which a physician may refer a Medicare patient to an entity for certain healthcare

services (known as "designated health services" or "DHS") if the physician, or an immediate family member of the physician, has a financial relationship with the entity. Under Stark, if the specified requirements are not satisfied, the referral is prohibited. A financial relationship can include an ownership or investment interest or a compensation arrangement. Any relationship involving the transfer of payments or benefits, including income guarantees, certain types of loans, free or discounted services, equipment or office space, constitutes a compensation arrangement. The Stark Law also prohibits an entity from billing any person or entity for DHS provided as the result of an improper referral.

**Anti-Kickback Statute.** The federal anti-kickback statute (the "Anti-Kickback Statute") makes it a criminal offense knowingly and willfully to offer, pay, solicit or receive anything of value (directly or indirectly, overtly or covertly, in cash or in kind) to induce or reward referrals of items or services that can be paid for by a federal healthcare program (including, but not limited to, Medicare, TennCare, other state Medicaid programs, CHAMPUS, and TRICARE).

#### **Procedure:**

Erlanger will maintain relationships with physicians and other potential referral sources based on the needs of the community and in a manner consistent with Erlanger's mission.

EHS Personnel are strictly prohibited from offering, paying, soliciting or receiving anything of value (directly or indirectly, overtly or covertly, in cash or in kind) to:

- (a) induce the referral of patients to an Erlanger-affiliated facility;
- (b) induce the order, purchase or lease of any item or service that may be reimbursed by Medicare, Medicaid or any other federal or state healthcare program; or
- (c) otherwise generate business for Erlanger or any Erlanger-affiliated facility.

EHS Personnel are also prohibited from accepting gifts, favors, payments, services or anything else of value that might appear to influence the actions of Erlanger or Erlanger-affiliated physicians, but may retain gifts of nominal value in accordance with the Code of Conduct and other Erlanger policies. Inappropriate offers should be reported to the Chief Compliance Officer ("CCO"), a member of the Compliance Committee or any supervisor.

Erlanger will treat potential referral sources fairly and consistently, and will not provide anything of value that could be considered payment for referrals, including but not limited to:

- free or below market value rents;
- administrative or staff services at no- or below cost;
- grants in excess of amounts for *bona fide* research or other services rendered;
- interest-free loans; or
- gifts, "perks", or other payments intended to induce referrals.

Compliance with these policies is a required condition of employment or continued engagement with Erlanger. Violations of these policies should be reported in accordance with the Compliance Program's Reporting Policy. All transactions with actual or potential referral sources ("Arrangements") will be reviewed by legal counsel competent in the area of compliance with the Anti-Kickback Statute, Stark Law, and the regulations and other guidance documents related to the statutes, and business or financial arrangements or contracts that generate unlawful federal health care program business in violation of the statutes. All Arrangements are also subject to the EHS Arrangements Database and Monitoring policy (# 8316.979).

Committee	Approval/Date
<u>Compliance Department</u>	February 20, 2006
<u>Compliance Committee</u>	
<u>Policies and Procedures Committee</u>	

**References:**

42 U.S.C. § 1320a-7b(b); 42 U.S.C. § 1395nn; 42 C.F.R. Part 411; 42 C.F.R. § 1001.952