

THE CHRIST HOSPITAL
CODE OF RESPONSIBLE CONDUCT

Approved by The Christ Hospital Board of Trustees

April 2008

THE CHRIST HOSPITAL CODE OF RESPONSIBLE CONDUCT

Dear Employees & Colleagues:

Our mission is to be the leading hospital for our region, providing the finest experience in personalized health care while advancing clinical excellence, technology, and education. Our values; excellence, compassion, efficiency and leadership, reflect our shared commitment to our mission and our community.

Our Code of Responsible Conduct (the “Code”) is designed to help all of us understand what is expected of us and to ensure that our work is done in an ethical and legal manner. Specifically, the Code is meant to help us understand the federal, state and local laws, the ethical standards, and The Christ Hospital policies that govern the way we provide care and conduct business, particularly when we are dealing with the Medicare and Medicaid programs and their beneficiaries. It has been developed to help us carry out our daily activities in accordance with those laws, standards, and policies.

We are committed to a corporate culture of honesty and ethical responsibility. We believe that our employees already come to work wanting to do a good and honest job. By this Code, we formally established that philosophy as one of our highest priorities and rededicate ourselves to living and working in accordance with our values. We will not sacrifice compliance nor ethics in the pursuit of business objectives. To this end, we expect each Christ Hospital employee to know, understand, and follow the guidelines and policies described in this Code.

If you have questions regarding this Code or if you encounter any situation that causes you to question actions or conversation, you should immediately consult with your supervisor, a member of the Administration Team, or the Risk and Compliance Office. Please know that it is a violation of The Christ Hospital policy for anyone to retaliate against an employee who, in good faith, asks questions or raises concerns about ethics or compliance, or who reports conduct that may be improper. If, however, you feel uncomfortable about consulting with a supervisor, member of management, or the Risk and Compliance Office, you may call the Help Line anonymously (513/585-2202).

Thank you for signing and returning the enclosed Acknowledgement Form to Human Resources.

We look to each of you, as valued members of The Christ Hospital team, to help us carry out our mission in an ethical manner reflecting this integrity in all that you do. Living our values makes us who we are.

With gratitude for all that you do,

Susan Croushore
President and CEO

**THE CHRIST HOSPITAL
CODE OF RESPONSIBLE CONDUCT**

TABLE OF CONTENTS

I.	VISION + MISSION + VALUES	1
II.	PURPOSE OF THE CODE OF RESPONSIBLE CONDUCT	1
III.	CULTURE OF RESPONSIBILITY	1
IV.	CORPORATE COMPLIANCE PROGRAM / COMPONENTS	1
	A. Adoption by Board of Trustees	1
	B. Scope of Application	2
	C. Overview of Code	2
V.	COMPLIANCE STANDARDS OF CONDUCT, POLICIES & PROCEDURES	2
A.	Compliance with Laws, Rules and Regulations	2
	B. Acknowledgment of Receipt & Understanding	2
	C. Duty to Report Suspected Violations	3
	D. Duty to Cooperate in any Investigation	4
	E. No Retaliation, Corrective Action and Discipline	4
	F. Duty to Cooperate with Government Auditors & Investigators	4
VI.	REGULATORY COMPLIANCE	6
	A. General Information about Medicare/Medicaid	6
	B. Duty to Report Fraudulent & Abusive Activity	7
	C. Monitoring Accurate Records	7
	D. Summary of Applicable Laws	8
	1. The False Claims Act (FCA)	8
	2. The Medicare/Medicaid Anti-Kickback Statute (AKS)	9
	3. The Stark Laws (Stark)	10
	4. The Health Insurance Portability & Accountability Act (HIPAA)	12
	5. Civil Monetary Penalties Law (CMP)	12
	6. Exclusionary Statute	13
	7. Mail Fraud and Wire Fraud Statutes	14
	8. Emergency Treatment & Active Labor Act (EMTALA)	14
	9. Program Fraud Civil Remedies Act of 1986 (PFCRA)	15
	10. State Laws	15
	11. Fraud, Waste & Abuse Prevention & Detection	17
	12. “Whistleblower” Protection	17
VII.	RELATIONSHIPS WITH AFFILIATED PHYSICIANS	17
	ACKNOWLEDGMENT FORM	19

I. THE CHRIST HOSPITAL VISION + MISSION + VALUES

The Christ Hospital's vision is to be nationally recognized for clinical excellence and to be an innovative leader in progressive care and healing.

The Christ Hospital will be the leading hospital for our region, providing the finest experience in personalized health care while advancing clinical excellence, technology, and education. In order to achieve these goals, The Christ Hospital has identified the following core values: Excellence, Compassion, Efficiency and Leadership (ExCEL). These values underscore our important standards of responsible conduct.

II. PURPOSE OF THE CODE OF RESPONSIBLE CONDUCT (CODE)

The Code, which was adopted by The Christ Hospital Board of Trustees, identifies expected behavior The Christ Hospital requires from each employee and care partner in carrying out each job responsibility and in making each business decision. Some of the most important health care laws, rules, and regulations are summarized so that employees and care partners understand the necessity of complying with the Code. The following principles are the foundation for our standards of conduct:

- A. The Christ Hospital is an ethical health care organization which delivers patient and client services according to applicable federal, state and local laws, and all professional standards of business practice.
- B. Patients and families and their diverse needs and beliefs are the center of all The Christ Hospital does and deserve dignity, respect and honesty from every employee, health care provider, and service vendor.
- C. All Christ Hospital employees and care partners, including physicians, third party payors, contractors, vendors and consultants should conduct patient care and business relationships in a manner demonstrating honesty, fairness, and mutual respect.

III. CULTURE OF RESPONSIBILITY

Each employee, volunteer and care partner throughout the organization is responsible for performing job responsibilities in compliance with the Code. Any employee can ask a question, raise an issue and report a violation. No one who takes these steps in good faith will be disciplined or be subject to retaliation. Any person who becomes aware of retaliation action by an employee of the organization for reporting an issue or potential violation should call his/her supervisor, administrative manager or the Compliance Officer.

IV. CORPORATE COMPLIANCE PROGRAM / COMPONENTS

- A. *Adoption by Board of Trustees*

The Board of Trustees of The Christ Hospital passed a resolution adopting the Corporate Compliance Program (the "Program"). The Program documents the organizational commitment to recognize and establish standards of compliance and ethics. The Program is designed to prevent, detect and resolve potential violations of the federal, state and local laws that govern the way The Christ Hospital provides care and conducts business,

particularly with respect to the state and federal health care programs, such as Medicaid and Medicare and their beneficiaries.

B. Scope of Application

The Corporate Compliance Program applies to all Christ Hospital employees, volunteers, medical staff members, The Christ Hospital Medical Associates (TCHMA), its physicians and offices, and agents/business partners.

C. Overview of Code

1. Standards of Conduct, Policies & Procedures
2. Compliance Officer – Reporting and Enforcement
3. Cooperation with Investigations
4. Health Care Laws, Rules and Regulations

V. COMPLIANCE STANDARDS OF CONDUCT, POLICIES & PROCEDURES

A. The Christ Hospital and its employees, volunteers, staff, physicians, agents, consultants, and all care partners will comply with all laws, regulations and standards.

1. It is the policy of The Christ Hospital to conduct its affairs in a lawful and ethical manner. Applicable laws, regulations and standards address many subjects, such as licenses, permits, accreditation, access to treatment, consent to treatment, medical record keeping, access to medical records and confidentiality, patients' rights, terminal care decision-making, medical staff membership and clinical privileges, corporate practice of medicine restrictions, and Medicare and Medicaid regulations.
2. For a more detailed understanding of these policies and procedures and associated requirements, employees should consult the Compliance policies available on The Christ Hospital web site and Intranet. Any employee who does not have access to The Christ Hospital web site and Intranet may request a copy from the Risk and Compliance Office.

B. Each employee of The Christ Hospital must sign an Acknowledgment Form confirming that they have received a copy of the Code and that they understand the mandatory policies contained in the Code, policies and procedures.

1. New employees will be required to sign this acknowledgment as a condition of employment following orientation and training on the Code.
2. Adherence to and support of the Code and participation in related activities and training will be considered in decisions regarding hiring, promotion, and compensation of all employees.

3. The Christ Hospital employees, medical staff members, providers, and contract service vendors are expected to be knowledgeable about the Code policies and should take reasonable steps to comply with applicable laws, regulations, and standards that affect them.
4. The Christ Hospital expects its employees, medical staff members, providers, and contract service vendors to exercise good judgment and integrity in all matters, including those involving investigation or reporting of matters described in this Code. The support of all Christ Hospital employees is required so that violations of the Code are brought to the attention of appropriate leaders in the organization. The Christ Hospital encourages employees to address ethical or compliance issues with their supervisors whenever possible and appropriate.
5. If for any reason an employee is not comfortable or able to speak with his or her supervisor about an ethical or compliance issue, the employee should bring the issue to another member of management or to the Compliance Officer, or may call the Compliance Help Line anonymously (513/585-2202).
6. Concealment of a violation is, in itself, a violation of this Code. Therefore, anyone who is unsure about (1) whether a law, regulation or standard is applicable (to that person or to another), (2) what a law, regulation or standard means, or (3) whether something is a violation of an applicable law, regulation or standard should ask his or her supervisor, a member of management, and/or the Compliance Officer. In general, it is best to ask about or report any act or omission that makes you uncomfortable or that seems to require excessive rationalization or justification. The fact that “everybody does it” is not an excuse for violation of applicable laws, regulations or standards.
7. The Christ Hospital will try to keep reports and the identity of any individual confidential if the law permits.
8. The Christ Hospital will not permit retaliation against any employee, health professional, or volunteer for inquiring about or reporting a suspected violation when done in good faith. But, deliberate false accusations made with the purpose of harming or retaliating against another will result in disciplinary action.

C. The Christ Hospital Compliance Officer will monitor Code compliance, investigate reports, and identify appropriate corrective actions. All employees are obligated to cooperate in any investigation.

1. The Christ Hospital is committed to monitoring compliance with the Code and compliance policies. The Internal Audit Division of the Finance Department performs monitoring by routinely conducting internal audits of issues that have regulatory and compliance implications. The Christ

Hospital also uses other means of ensuring and demonstrating compliance with applicable laws, standards, and policies.

2. The Compliance Officer will review each report of a potential violation of the Code, and will initiate an investigation as necessary. The Christ Hospital expects all employees, medical staff members, and privileged practitioners to cooperate with any investigation.
3. When the inquiry has been completed, the Compliance Officer will review findings with the appropriate Administrative Department and/or outside Legal Counsel to determine if a violation has occurred.
4. If a violation has occurred, The Christ Hospital will initiate corrective action including, as appropriate, making restitution of overpayments, notifying the appropriate government officials, instituting necessary disciplinary action, and/or implementing systemic changes to prevent similar violations from recurring in the future.

D. Anyone who violates any provision of the Code will be subject to disciplinary action.

1. The actual discipline administered will depend on the nature, severity, and frequency of the violation(s).
2. Disciplinary action for a violation of the Code can include any of the following: verbal warning, written warning, written reprimand, suspension, termination, and/or restitution.

E. The Christ Hospital and its employees, volunteers, staff and physicians will cooperate with government auditors & investigators.

1. It is possible for a Christ Hospital employee, medical staff member, or privileged practitioner to receive letters, telephone calls, and/or personal visits from outside individuals asking questions about Christ Hospital activities. Some of those outside individuals could be government investigators from federal or state agencies such as the Department of Health and Human Services, its Office of Inspector General (the "OIG"), the Medicaid Fraud Control Unit, the Federal Bureau of Investigation, various Medicare intermediaries, and state licensing agencies.
2. During a government audit or investigation, The Christ Hospital, its employees, medical staff members, and privileged practitioners will be courteous to all government inspectors.
3. The Christ Hospital will take reasonable efforts to provide government inspectors with complete and accurate information that they request and to which they are entitled.

4. The Christ Hospital will not conceal, destroy, or alter any documents, lie, or make misleading statements to government representatives. Similarly, The Christ Hospital will not attempt to cause others to fail to provide accurate information or obstruct, mislead, or delay the communication of information or records relating to a possible violation of applicable laws, regulations or standards.
5. You should be aware of your individual rights and privileges, as well as the rights of The Christ Hospital during any investigation. Any Christ Hospital employee, medical staff member, privileged practitioner, or volunteer who receives any communication regarding a possible government audit or investigation should contact a member of the Administration Team and/or the Compliance Officer as soon as possible. The Compliance Officer will evaluate the circumstances and determine the need for any additional action.
6. If a government auditor or investigator contacts you, The Christ Hospital expects that you will follow these guidelines:
 - a) Please contact a member of the Administration Team and/or the Compliance Officer as soon as possible.
 - b) You may speak with government auditors and investigators or you may decline to speak with them, as you choose.
 - c) You are not obligated to answer any question asked by the auditor or investigator, no matter what he or she says, and no matter what assurances he or she might offer you concerning the information you disclose.
 - d) Be courteous and respectful in all interactions.
 - e) You should answer all questions completely, accurately, and truthfully. Tell the truth at all times. Do not guess at answers. If you do not know an answer, say that you do not know.
 - f) You may inform the auditor or investigator that The Christ Hospital has requested you to notify a member of the Administration Team, the Compliance Officer and/or Legal Counsel and that The Christ Hospital will cooperate with requests and information.
 - g) If a government auditor or investigator attempts to interview you at home, you have the right to request that an appointment be scheduled at The Christ Hospital during regular working hours at a convenient time, or that the meeting be scheduled at an alternate time and place of your choosing. The Christ Hospital will make an office on Christ Hospital premises available to you for this purpose and, if you desire, may have the Compliance Officer and/or an attorney attend the interview with you.
 - h) During the interview, The Christ Hospital will ask the auditor or investigator for proper identification before any questions are answered. The Christ Hospital recommends that you do not answer questions over the telephone.

- i) Do not provide any Christ Hospital documents to the government auditor or investigator unless first authorized to make such a release by the Administration Team, the Compliance Officer or Christ Hospital Legal Counsel. Take reasonable steps to copy (or if that is not possible to identify in some other manner) all documents (paper or electronic) released to a government auditor or investigator.

VI. REGULATORY COMPLIANCE

The Christ Hospital, its employees, medical staff members, and privileged practitioners are expected to recognize certain fraudulent and abusive practices and activity which result in overcharging or misbilling for health care services delivered to Medicare and Medicaid beneficiaries and MUST NOT participate in any of these activities. Examples of these unethical and illegal activities are listed in this section.

A. General Information about Medicare and Medicaid

The Christ Hospital participates in the Medicare and Medicaid programs and must be paid for the services and products that it provides in order to continue to provide health care services to the community. The process of requesting reimbursement or payment must be accurate, timely, and in accordance with a number of laws. Failure to obey those laws is unethical and illegal. When such a failure results in an overcharge or misbilling, it can lead to substantial civil and criminal penalties being imposed on The Christ Hospital and/or any individual(s) who were involved. Medicare/Medicaid fraud and abuse can take many forms, some of which might not seem improper unless you keep in mind that special rules govern health care providers who participate in the Medicare/Medicaid programs. Many business practices that are perfectly acceptable in other industries are **not** permitted in health care. Examples of fraud and abuse, all of which are unethical and illegal include, but are not limited to, the following:

- Billing for items not provided or services not actually rendered
- Billing twice for the same service or item (*i.e.*, double billing)
 - Upcoding (*i.e.*, billing for a service at a rate higher than that warranted by the service actually performed and documented)
 - Billing for services or items that do not meet Medicare/Medicaid “medical necessity” criteria
 - Unbundling (*i.e.*, billing separately for services or items that should be included in a global or composite rate)
 - Billing Medicare/Medicaid for services or items that are not reimbursable under those programs
 - Billing Medicare patients higher charges than non-Medicare patients
 - Submitting false cost reports and cost shifting
 - Failing to refund credit balances
 - Giving or paying to, or soliciting or accepting from potential referral sources (*e.g.*, physicians, nursing homes, other providers and suppliers) incentives for referrals (this can violate the Anti-Kickback Statute and/or the Stark Laws)

- Patient dumping

B. Any employee, medical staff member, or privileged practitioner who knows or suspects that any of these activities are occurring is obligated to report that to his or her supervisor and/or to the Compliance Officer either directly or through the Compliance Help Line (513/585-2202). Knowing participation in any fraudulent or abusive activity and/or failure to report any such known or suspected activity will result in disciplinary action up to, and including, termination.

1. Proactively, The Christ Hospital will make every reasonable effort to ensure that its billings to government and private insurance payors are accurate and conform to applicable laws and regulations.
2. The Christ Hospital prohibits its employees and agents from knowingly or recklessly presenting or causing to be presented any false, fictitious, or fraudulent claim for payment or approval.
3. The Christ Hospital will take reasonable steps to verify that claims are submitted only for services that are actually provided and that those services are billed as provided. Critical to such verification is complete and accurate documentation of services provided.
4. Contact the Compliance Officer with questions concerning proper Medicare/Medicaid billing.

C. Christ Hospital employees and health professionals are responsible for maintaining current, complete, and accurate medical records.

1. The Christ Hospital will take reasonable steps to make sure that any subcontractor it engages to perform coding or billing services have appropriate skills, quality assurance processes, systems and procedures to bill government and commercial insurance programs accurately and appropriately.
2. The Christ Hospital prefers to contract with entities that have adopted their own compliance programs.
3. The Compliance Officer or Legal Counsel should be consulted before third party billing entities, contractors, or vendors are engaged to perform coding or billing services for The Christ Hospital.

D. Summary of Applicable Laws and Additional Standards of Conduct

The Medicare/Medicaid fraud and abuse laws which most Christ Hospital employees, medical staff members, and privileged practitioners need to be knowledgeable about are the following statutes: (1) the federal **False Claims Act** (“FCA”); (2) the **Medicare/Medicaid Anti-Kickback Statute** (“AKS”); (3) the **Stark Laws** (Stark); (4) the **Health Insurance Portability and Accountability Act** (“HIPAA”); (5) the **Civil Monetary Penalties Statute** (“CMP”); (6) the

Exclusionary Statute; (7) the Mail Fraud and Wire Fraud Statute; (8) Program Fraud Civil Remedies Act; (9) the Emergency Treatment & Active Labor Act (EMTALA); and (10) state Medicaid Fraud Laws. Together, these laws prohibit intentional false billing and other forms of fraud and abuse. These health care statutes, rules, and regulations are specifically identified in the OIG Compliance Program Guidance (2/23/98) and the OIG Supplemental Compliance Program Guidance for Hospitals (1/31/05). The OIG recommendations are available for review in the Risk and Compliance Office and can be accessed through the OIG website: <http://oig.hhs.gov>.

A summary description of these important fraud and abuse laws follows. More information about any of these statutes may be obtained from the Risk and Compliance Office or from the Compliance Officer.

1. **The False Claims Act (FCA)**

Under the False Claims Act, it is a felony to make or present a claim for payment to the United States or any United States agency when you know (or should know) that the claim is false, fictitious, or fraudulent. “Knowingly” means acting with actual knowledge or with reckless disregard or deliberate indifference to the truth or falsity of information. The FCA prohibits:

- a) Knowingly presenting/causing to be present a false claim to the federal government for payment/approval;
- b) Knowingly making/using or causing to be made/used, a false record or statement to the government for payment/approval of a false claim;
- c) Conspiring to defraud the government by having a false/fraudulent paid or approved; and
- d) Knowingly making/using a false record/statement to conceal, avoid, or lower an obligation to pay or transmit money or property to the government.

Violations of the FCA are punishable by prison terms of up to five years and substantial criminal fines. Civil damage suits may also be brought by the government under the FCA and can result in penalties including three times the amount of overpayment and between \$5,500 – to \$11,000 per claim plus attorneys’ fees. “Whistleblower” claims may also be filed by individuals under the FCA; the government can intervene in these cases.

False, fictitious, or fraudulent claims made in the course of seeking Medicare or Medicaid reimbursement are punishable under the False Claims Act.

The Medicare Program is made up of two parts: Medicare Part A and Medicare Part B. Medicare Part A pays for certain inpatient hospital services and certain post-hospital services. Claims for Part A reimbursement are submitted to the hospital fiscal intermediary for review and payment. Medicare Part B pays for certain physician services and certain outpatient services. Claims for Part B reimbursement are sent to the local Medicare carrier. Many complex rules govern when it is appropriate to submit a claim for reimbursement to a Medicare fiscal intermediary or a Medicare carrier. The rules are so numerous and complex that even intermediaries and carriers often need help

in interpreting and applying the rules. To assist the intermediaries and carriers, the Center for Medicare/Medicaid Services publishes the Medicare Intermediary's Manual and the Medicare Carrier's Manual. These manuals provide the basic operating instructions for intermediaries and carriers and are a source of guidance with respect to appropriate Medicare reimbursement.

Standard of Conduct

Any claim for Medicare reimbursement that is rejected by a Medicare intermediary or carrier should be reviewed carefully because this rejection can lead to an allegation that the claim was false, fraudulent, or fictitious in violation of the False Claims Act.

2. The Medicare/Medicaid Anti-Kickback Statute (AKS)

Because The Christ Hospital and many of its medical staff members and privileged practitioners are participating providers in the Medicare/Medicaid programs, it is subject to the Medicare/Medicaid Anti-Kickback Statute and the Stark Laws (Stark).

Under the AKS, no person (an individual or entity) may offer, pay, solicit, or receive anything of value (in cash or in kind) directly or indirectly for referrals of Medicare/Medicaid business. This prohibition is very broad and covers all situations in which something is provided either free of charge or at a reduced cost to any potential referral source (*e.g.*, physicians, DME or other suppliers, nursing homes, other providers).

A "thing of value" includes, but is not limited to, the following items or services when provided free of charge or at a discount:

- equipment (*e.g.*, microscopes, centrifuges, computers)
- office space
- personnel (*e.g.*, nurses, phlebotomists, secretaries, *et.*, *al.*)
- CME (or other educational programs)
- recruitment incentives (*e.g.*, payment of moving expenses)
- health benefits; and/or
- many other goods or services

There are some exceptions to the AKS general rule which are called "safe harbors". For example, it is permissible for a hospital, laboratory, or group practice to sell or lease something to a physician or other potential referral source, IF the physician (or other referral source) pays FAIR MARKET VALUE ("FMV") for the thing and the sale or lease is documented in a written agreement between the parties. FMV is a difficult concept to define. In general, it means the cost of the thing as negotiated between parties at arm's-length, without accounting for the value or volume of any Medicare or Medicaid business between the parties. Often, a financial consultant must perform a market analysis to document that a negotiated price is in fact "fair market value".

These exceptions, however, are narrow in scope and require detailed legal and financial analysis to apply correctly to a proposed transaction. No one should enter into a proposed arrangement unless the Compliance Officer and/or Legal Counsel has reviewed the arrangement and determined that an exception applies.

Persons (individuals or entities) who violate the AKS are subject to criminal penalties including fines of up to \$25,000 per violation, exclusion from the Medicare/Medicaid programs, and/or prison terms of up to five years. The penalties apply to all parties involved in a prohibited transaction (*e.g.*, a hospital, laboratory, or group practice on one hand, and the physician or other potential referral source on the other).

Standard of Conduct

The Christ Hospital shall not enter into any arrangement where anything is offered, given, or paid to, or solicited or accepted from, any physician or other potential referral source for less than FMV.

3. The Stark Laws (Stark)

The Stark Laws were named after their sponsor, Representative Fortney “Pete” Stark D-Calif.). Stark prohibits physicians from referring Medicare/Medicaid patients for “designated health services” (as defined below) to an entity; (i) in which the physician or a family member of the physician has an ownership/investment interest, or (ii) with which the physician or a family member of the physician has a compensation arrangement (*e.g.*, an employment relationship, a personal services agreement, a lease agreement) unless the ownership/investment interest or compensation arrangement qualifies for one of the Stark exceptions discussed below.

For purposes of Stark, the term “designated health services” includes the following:

- clinical laboratory services
- physical therapy services
- occupational therapy services
- radiology or other diagnostic services
- radiation therapy services
- durable medical equipment
- parenteral and enteral nutrients, equipment and supplies
- prosthetics, orthotics and prosthetic devices
- home health services
- outpatient prescription drugs
- inpatient and outpatient hospital services

If a physician or a physician’s family member has an ownership/investment in or a compensation arrangement with an entity that does not qualify for an applicable exception, the physician may **NOT** refer Medicare/Medicaid patients to that entity for any of these designated health services. If the physician does make such a referral, it is an **AUTOMATIC** violation of Stark.

Whenever a referral is made in violation of Stark, the entity receiving that referral (*e.g.*, a hospital, laboratory, physician group) may **NOT** bill Medicare/Medicaid, the patient, or any third-party payor for the services provided pursuant to the referral. If the entity does bill for those services, the entity also has violated Stark.

There are a number of narrow exceptions to Stark. Some of the exceptions apply only to ownership/investment interests that a physician or a physician's family member has with an entity (*e.g.*, certain ownership/investment interests in publicly traded securities and mutual funds), and some apply only to compensation arrangements that a physician or a physician's family member has with an entity (*e.g.*, certain bona fide employment arrangements, and certain isolated transactions that meet defined criteria). A few apply to both. The exceptions that apply to both ownership/investment interests and compensation arrangements include certain physician services provided in a group practice setting which meets defined criteria, and certain in-office ancillary services that meet defined criteria. All of the exceptions, however, are narrow in scope and require detailed legal and financial analysis to be applied correctly to a proposed transaction. No one should enter into a proposed arrangement unless the Compliance Officer or Legal Counsel has reviewed the arrangement and determined that an exception applies.

Violations of Stark can lead to civil monetary penalties of up to \$15,000 per claim submitted, and up to \$100,000 for schemes designed to get around the laws, as well as exclusion from the Medicare/Medicaid programs for up to five years.

Standard of Conduct

Physicians may not refer Medicare/Medicaid patients for any designated health service to an entity in which the physician or family member of the physician has a financial interest. The Christ Hospital and its entities will make every effort not to participate in a prohibited referral. In the event a prohibited referral occurs, no Christ Hospital entity will bill for any services provided pursuant to that prohibited referral.

4. The Health Insurance Portability & Accountability Act (HIPAA)

The Health Insurance Portability & Accountability Act makes it a federal crime to engage in certain types of fraudulent or abusive activities that involve **any** payor of health care benefits whether public or private. HIPAA applies not only to providers who deal with government-funded health care payors and programs such as Medicare and Medicaid, but also to providers who deal with private, commercial payors and programs.

The five types of activities prohibited by HIPAA are: (i) knowingly or willfully defrauding a health care program or plan, or obtaining payment from a health care program or plan by using false or fraudulent pretenses; (ii) engaging in theft or embezzlement; (iii) making false statements; (iv) obstructing an investigation into health care fraud; and/or (v) money laundering related to health care programs or plans.

HIPAA also governs the use and disclosure of patient health information. Employees are expected to comply with The Christ Hospital's HIPAA policies and procedures. The Christ Hospital Privacy Officer furnishes guidance about these policies and procedures.

Violations of HIPAA can result in prison terms of up to ten years, criminal fines, or both. HIPAA also authorizes the Government to impose civil monetary penalties on entities or individuals who engage in a pattern or practice of presenting claims that are based on a code that the person/entity knows or should know will result in more reimbursement than is appropriate, or that are for services or items that are not medically necessary.

Standard of Conduct

Any false, fictitious, or fraudulent claim made in the course of seeking reimbursement from any health care payor or program (government or private) is punishable as a federal crime under HIPAA.

5. Civil Monetary Penalties Law (CMP)

Among the activities prohibited by the Civil Monetary Penalties Law are: (a) knowingly presenting or causing to be presented false claims (specifically upcoded claims); (b) knowingly presenting or causing to be presented claims for services that are not medically necessary (as defined by Medicare); (c) knowingly presenting or causing to be presented claims that violate a benefits assignment; (d) offering or giving remuneration to Medicare or Medicaid patients as an incentive for them to receive services from the entity or individual giving the remuneration; and (e) contracting with or employing individuals or entities excluded from participating in a federal health care program.

Standard of Conduct

Any false claim, claim for unnecessary services, or claim for services ordered or provided by an excluded entity or individual can give rise to Civil Monetary Penalties. Offering or providing anything of value to Medicare/Medicaid patients as an incentive for them to receive services from the entity or individual making the offer or gift also can give rise to Civil Monetary Penalties.

6. Exclusionary Statute

The Exclusionary Statute prohibits providers from: (a) submitting claims for unnecessary services or for excessive charges; and (b) failing to furnish medically necessary services. Providers who engage in these prohibited activities may be excluded from participating in federal health care programs. Providers who have been convicted of certain types of health care fraud or have been disciplined by state/federal agencies may also be excluded from state or federal health care programs.

As required by law, it is the policy of The Christ Hospital to take reasonable steps not to employ, grant medical staff membership or clinical privileges to, or otherwise do business with, any individual or entity named on the Office of Inspector General's list of individuals and entities who are excluded, debarred, suspended, or otherwise ineligible to participate in federal or state health care programs.

Each Christ Hospital employee, each medical staff member and allied health professional affiliated with The Christ Hospital, and any other person who does business with The Christ Hospital will be required to affirm that he or she is not currently excluded, debarred, suspended, or otherwise ineligible to participate in federal or state health care

programs. All such persons shall also affirm that they have never been excluded, debarred, suspended, or otherwise ineligible to participate in federal or state health care programs, and that they have never been convicted of any criminal offense involving or otherwise related to any government health care program. Further, as a condition of employment, receiving and maintaining medical staff membership and privileges at The Christ Hospital or doing business with The Christ Hospital, all such persons are required to immediately inform the Risk and Compliance Office, if they receive notice or otherwise become aware that they have been excluded, debarred, suspended, or otherwise ineligible to participate in federal or state health care programs for any reason.

Standard of Conduct

The Christ Hospital will not employ, grant medical staff membership or clinical privileges to, or otherwise do business with, any individual or entity named on the Office of Inspector General's list of individuals and entities who are excluded, debarred, suspended, or otherwise ineligible to participate in federal or state health care programs.

7. Mail Fraud and Wire Fraud Statutes

The Mail Fraud and Wire Fraud Statutes are used by the Government to prosecute Medicare/Medicaid fraud and abuse. Any misrepresentation that is a part of a scheme to obtain money or property by use of the mail system or a wire system (*e.g.*, phones, computers) violates these laws. For example, each claim for reimbursement that The Christ Hospital mails to Medicare/Medicaid or that The Christ Hospital submits to Medicare/Medicaid electronically could be subject to these laws. In addition, any time a Christ Hospital employee, medical staff member, or privileged practitioner speaks by phone with a Medicare/Medicaid representative, that conversation could be subject to these laws. As a result, it is critical that The Christ Hospital's claims and its statements be accurate and correct whenever The Christ Hospital communicates with Medicare/Medicaid representatives, and whenever The Christ Hospital seeks reimbursement from Medicare/Medicaid.

Violations of the Mail and Wire Fraud Statutes can lead to criminal penalties, including imprisonment and fines.

Standard of Conduct

Conduct that violates the False Claims Act, the Medicare/Medicaid Anti-Kickback Statute, the Stark Laws and/or the HIPAA, and if done using the mail system or a wire system, could also violate the Mail and/or Wire Fraud Statutes.

8. Emergency Treatment & Active Labor Act (EMTALA)

The Christ Hospital abides by the rules and regulations of the Emergency Treatment and Active Labor Act in providing emergency medical treatment to all patients regardless of their ability to pay. The Christ Hospital does not admit or discharge patients based solely

on their ability to pay. Any patient who presents to The Christ Hospital seeking emergency care will be screened to determine whether he or she has an emergency medical condition, or if she is in active labor. If so, the patient will be treated to stabilize the condition and either will be admitted, or once stabilized, will be discharged or transferred as is appropriate. Transfers of unstabilized patients will occur only when requested in writing by the patient (or patient's family), or when a physician certifies in writing that the medical benefits of the transfer outweigh the risks. Unstabilized patients will be transferred to the closest hospital that provides the services needed by the patient, that has available beds and staff, and that accepts the transfer. Unstabilized patients will be transferred via qualified personnel and equipment including the use of medically appropriate life support measures if necessary.

Standard of Conduct

The Christ Hospital will evaluate all patients who come to the hospital seeking treatment for an emergency condition and will provide a medical screening examination to determine whether the patient has an emergency medical condition. If so, the patient may not be transferred or discharged from the hospital until his or her emergency medical condition has been stabilized, unless one of the applicable exceptions for proper transfers of unstabilized patients applies. It is illegal to delay a medical screening exam and stabilizing treatment to inquire about a patient's financial status, insurance coverage, or ability to pay.

9. Program Fraud Civil Remedies Act of 1986 (PFCRA)

The Program Fraud Civil Remedies Act of 1986, 31 U.S.C. Chapter 38, authorizes federal agencies to investigate alleged false claims or statements made to them and to assess penalties if the allegations are accurate. An individual may violate PFCRA by knowingly making, presenting, submitting, or causing to be made, presented or submitted, a claim or statement that is:

- a) False, fictitious or fraudulent;
- b) Supported by or includes a written statement containing a false, fictitious or fraudulent material fact;
- c) Supported by or includes a written statement omitting a material fact which renders the statement false, fictitious, or fraudulent where the person making/submitting the statement has a duty to include the material fact, and
- d) Payment for property/services which have not been provided.

The agency may assess twice the amount of claimed damages and a civil penalty of up to \$5,500 for each false claim. The United States Attorney General has exclusive enforcement authority for assessments and penalties in federal court.

10. State Laws

Ohio has statutes which prohibit illegal and fraudulent practices by health care providers; these laws are similar to some of the federal statutes described previously and includes

laws authorizing the investigation and discipline of a provider's license to practice. This section will outline the most important statutes:

- a) Medicaid Fraud. Ohio Revised Code (ORC) 2913.40: This is a criminal statute which prohibits the use of false, misleading statements to obtain Medicaid reimbursement and makes the soliciting/accepting/receipt of property, money or other consideration in addition to the reimbursement an illegal "kickback". The law also imposes a six-year requirement for record retention and prohibits the alteration, falsification, and destruction of records necessary to substantiate a claim. Penalties vary depending on the amount of the fraudulent reimbursement, and can involve restitution and the payment of costs for investigation and prosecution of the fraud case by the government agency.
- b) Medicaid Eligibility Fraud. ORC 2913.401: This law makes it a crime to fraudulently make a false or misleading statement or to conceal interests in property when applying for Medicaid benefits. Penalties involve restitution of benefit payments plus interest.
- c) Falsification. ORC 2921.13: This statute prohibits verbal and written false statements made to mislead officials in order to obtain benefits administered by a government agency, such as Medicaid benefits or a Medicaid provider agreement administered by the Ohio Department of Job and Family Services. Penalties involve restitution and can involve attorney fees.
- d) Provider Offenses. ORC 5111.03: This law prohibits Medicaid providers from using "deception" to obtain/receive payments. Examples include falsification of reports and claims, withholding information, and providing misleading information which enables the provider to receive Medicaid reimbursement. This law permits civil and criminal penalties of \$5,000 to \$10,000 per claim, three times the amount of illegal reimbursement received, costs of enforcement, and possible exclusion from the Medicaid program.
- e) Disciplinary Actions. ORC 4731.22: This law prohibits physicians, osteopaths, and podiatrists from using fraudulent misrepresentation to obtain "money or anything of value" in the course of practice. It also prohibits physicians from waiving deductibles or co-payments as an enticement to keep the patient coming back for care, unless the waiver is approved in writing by the payor. This law enables the Ohio Medical Board to investigate and discipline a physician's license.
- f) Prohibiting Referrals for Designated Health Services. ORC 4731.66: This statute authorizes the Ohio Medical Board to

investigate and discipline a physician, osteopath, or podiatrist for referring patients for designated health services to persons or entities when the provider or a member of the provider's immediate family has an ownership/investment interest or a compensation arrangement with the person/entity unless the arrangement falls under certain exceptions listed in ORC 4731.67. Hospital and physician relationships are complex and arrangements must be reviewed by the Compliance Officer and/or Legal Counsel prior to the acceptance of such referrals.

- g) Medicaid Payments Exceed \$5 Million. ORC 5111.101: This law requires entities receiving Medicaid payments of \$5 million or more to provide written information to its employees, contractors and agents about the federal and state laws which govern false claims, fraud and waste, and information about "whistleblower" protections available to employees for preventing and detecting fraud, waste, and abuse.

11. **Fraud, Waste & Abuse Prevention & Detection**

The Christ Hospital has written policies which are part of the Code of Responsible Conduct and the Corporate Compliance Program which acknowledges the role of each employee and contractors and agents in preventing and reporting fraud, waste, and abuse in health care programs.

12. **"Whistleblower" Protection**

The Christ Hospital encourages the identification, investigation, and prevention of any action which may violate any of the fraud, waste, and abuse statutes and laws governing health care providers cited in this Program. If any employee suspects that activity violating the laws is taking place, or has taken place, the individual should contact his/her immediate supervisor and/or the Compliance Officer. Anonymous reporting can be made through the Help Line (513/585-2202).

Standard of Conduct

The Christ Hospital policy and federal/state laws prohibit retaliation against those who report such activity and protect anyone who files a "whistleblower" lawsuit in good faith. If a reporting or filing employee believes he/she has experienced retribution or retaliation, this should be reported to the Risk and Compliance Office or call the Help Line (513/585-2202).

VII. RELATIONSHIPS WITH AFFILIATED PHYSICIANS

Since the mid 1980s, health care has become one of the most heavily regulated industries in the nation. As a result, many transactions that used to be permissible in the health care arena are no longer proper. Relationships between health care providers and physicians have come under substantial scrutiny as part of the increasing regulation of health care. Therefore, The Christ Hospital must carefully structure its business arrangements with physicians to ensure that those arrangements comply with applicable legal requirements. Because most of the laws apply to the physicians involved in these transactions as well as to The Christ Hospital, compliance should benefit them also.

In order to comply with applicable legal and ethical standards regarding referrals and admissions, The Christ Hospital, its employees, health professionals, and volunteers will adhere strictly to the following standard of conduct.

Standard of Conduct

The Christ Hospital does not pay for referrals and does not seek or accept payments for making referrals to health care entities or providers.

The Christ Hospital accepts patient referrals and admissions based solely on a patient's medical needs and its ability to meet those needs. The Christ Hospital does not pay or offer to pay anyone including, but not necessarily limited to, its employees, physicians, and other health professionals for referrals of patients. That is, The Christ Hospital does not offer or give anything of value (*e.g.*, money, discounts, goods or services), directly or indirectly for patient referrals.

The Christ Hospital, its employees, health professionals, and volunteers may not solicit or receive any money or other item of value, directly or indirectly, in exchange for referring patients to another health care provider or supplier. When The Christ Hospital does make patient referrals to another provider or supplier, it will not consider the volume or value of referrals that that provider or supplier makes or may make to The Christ Hospital.

Violation of this rule could have serious consequences for The Christ Hospital and for the individuals involved in the violation including civil and criminal penalties, as well as possible exclusion from participation in federally funded health care programs. Any Christ Hospital employee or health professional who is contemplating a business arrangement that might implicate this rule must submit the proposed arrangement to the Risk and Compliance Office or Legal Counsel for review.

DETACHABLE ACKNOWLEDGMENT FORM

Managers will review the Code with their staff to ensure staff understands the Code’s provisions. All personnel will sign an acknowledgment form upon receiving a copy of the Code.

I certify that I have received a copy of The Christ Hospital’s Code of Responsible Conduct and that I understand the Code represents mandatory policies of The Christ Hospital.

Signature

Department & Title

Print Name

Facility

Date