

OPERATING POLICY & PROCEDURE  
Good Samaritan Hospital

TITLE: Stark Policy

NUMBER: 07-00-06

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PURPOSE:

The purpose of this policy is to assure that Good Samaritan Hospital complies with the federal physician self-referral statute and regulations (commonly known as the "Stark Law" or "Stark")(42 U.S.C. Section 1395nn and 42 C.F.R. Sections 411.350-357). The Stark Law prohibits a physician from referring Medicare beneficiaries for designated health services, which includes all inpatient and outpatient services, to entities with which the physician (or an immediate family member of the physician) has a financial relationship (and prohibits billing for services provided pursuant to a prohibited referral), unless an exception applies.

Penalties for Stark violations are non-payment for services resulting from a prohibited referral, civil penalties up to \$15,000 for each such service, and exclusion from the Medicare and Medicaid programs. Civil penalties of up to \$100,000 apply for schemes, such as cross-referral arrangements, intended to circumvent the rules.

DEFINITIONS:

***["Charitable Donation" means a charitable donation by a Physician (or Immediate Family Member of the Physician) that is neither solicited nor made in any manner that takes into account the volume or value of any referrals or business otherwise generated between the parties and complies with the Good Samaritan Hospital Anti-Kickback Policy.]***

"Financial Relationship" means (a) any type of direct or indirect "ownership or investment interest" of the Physician (or an Immediate Family Member of the Physician) in an entity to which the Physician refers, or (b) any direct or indirect "compensation arrangement" between the Physician (or an Immediate Family Member) and the entity. A compensation arrangement includes any arrangement involving the provision of remuneration or the transfer of something of value, including without limitation any medical director agreement, lease, employment arrangement, management services agreement, recruitment arrangement, purchases and sales to or from a Physician, etc.

"Immediate Family Member" means spouse; natural or adoptive parent, child or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and the spouse of a grandparent or grandchild.

"Medical Staff Incidental Benefits" means items or services (excluding cash or cash equivalents) provided by Good Samaritan Hospital to its medical staff members that is (1) offered to all medical staff members within the same specialty regardless of referrals or business generated by the medical staff member, (2) offered and used by medical staff members on the hospital's campus when the medical staff member is performing duties that benefit Good Samaritan

Hospital and/or its patients, (3) reasonably related to or designed to facilitate the provision of medical care at Good Samaritan Hospital, (4) consistent with the types of benefits offered by comparable hospitals, (5) worth less than \$26 per occurrence, and (6) determined without regard to referrals or business otherwise generated between the parties.

“Non-monetary Compensation” means unsolicited gifts, items or services (excluding cash or cash equivalents) worth less than \$308 annually that are provided without regard to referrals or business otherwise generated between the parties and that comply with the Good Samaritan Hospital Anti-Kickback Policy.

“Referring Physician” means a Physician who makes a referral or who directs another person or entity to make a referral or who controls referrals made by another person or entity.

"Physician" means a doctor of medicine or osteopathy; a doctor of dental surgery or dental medicine; a doctor of podiatric medicine; a doctor of optometry; or a chiropractor.

#### POLICY:

All of Good Samaritan Hospital's Financial Relationships with Referring Physicians (and with their Immediate Family Members) must comply with applicable exception(s) under the Stark Law, under the requirements and procedure set forth in this policy. In addition to complying with the requirements and procedure set forth in this policy, any Financial Relationships between Good Samaritan Hospital and any Physician (or a Physician's Immediate Family Member) must also comply with any other specific policies applicable to such relationship, including without limitation, the Anti-Kickback Statute Policy (number 07-00-07), the Physician Transaction Review and Monitoring Policy (number 04-00-04), and the Contract Compliance Assurance Policy (number 07-00-08) [*and the Physician Charitable Donation Policy*]. Because of the complexity of Stark Law issues, it is the policy of Good Samaritan Hospital that all potential Financial Relationships of Good Samaritan Hospital with Physicians or their Immediate Family Members be reviewed and approved by legal counsel before a Financial Relationship is established.

#### PROCEDURE:

##### 1. Compensation Arrangements

Generally, to comply with the Stark Law, compensation arrangements with Referring Physicians and their Immediate Family Members must: (1) be set forth in a signed, written contract (except employment arrangements, which need not be in writing) specifying the items or services covered, (2) specify the payment terms, which must be set in advance, consistent with fair market value for items or services actually provided, not taking account of the volume or value of referrals or other business generated between the parties, (3) specify the timeframe for the arrangement. If there are multiple contracts with any one party, each one should incorporate the others by reference or each must refer to a master list of contracts that contains all of the contracts with the Physician. Good Samaritan Hospital will not enter into any arrangement with a referring Physician (or an Immediate Family Member

of a referring Physician), whether written or oral, formal or informal, unless it: (1) satisfies the foregoing requirements, (2) has been approved in advance by legal counsel, or (3) involves only (a) Non-monetary Compensation, (b) compliance training provided locally, or (c) Medical Staff Incidental Benefits, or *[(d) Charitable Donation]*.

## 2. Ownership or Investment Interests

Good Samaritan Hospital will not form or invest in any joint venture with (or any other co-owned arrangement or any arrangement conferring any ownership or investment interest upon) any Referring Physician (or an Immediate Family Member of a Referring Physician), or offer any Referring Physician (or an Immediate Family Member of a Referring Physician) any ownership or investment interest [in any health care provider], unless legal counsel for Good Samaritan Hospital has first determined that the proposed transaction will comply with the Stark Law.

*[Footnote: Bracketed language (charitable donations) refers to Stark exceptions that require specific policies be in place before the exceptions are applicable. The bracketed language is intended as a placeholder so that these policies can be highlighted for consideration and adoption during the upcoming year so that they can be in place for the 2006 update of the Stark Policy. Until those policies are formally adopted and this Stark Policy is updated, financial relationships that might otherwise fit these exceptions are required to be approved by Good Samaritan Hospital legal counsel on a case-by-case basis.]*

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EFFECTIVE DATE: 10/22/03  
 AUTHORIZED BY: GSH Board of Directors  
 SOURCE: Leigh Bertholf Vice President, Corporate Responsibility  
 DATE REVIEWED:  
 REVISION NUMBER/DATE: (1) August 24, 2005

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NEXT REVIEW DATE: 7/31/06 (Annually)  
 REVIEWED BY: CHI Legal