

	SECTION: Compliance	NO: CMP 012
	TITLE: No Kickback (formerly the Anti-Kickback Statute Policy)	DISTRIBUTION: Corporate and all Facilities
Original Date of Issue: 03/01/2018		Date of Approval:
Revised: 06/2023		

Scope:

All Team Members of Summit Behavioral Healthcare, LLC (Summit BHC), including facilities and their employees, independent contractors and professional staff, Summit Board of Managers (Summit BHC Board), and other individuals authorized to act on behalf of Summit BHC.

Purpose:

To establish protocols to educate Team Members at Summit BHC, its subsidiaries and affiliates in their obligations to comply with Anti-Kickback laws with particular attention to referral source arrangements.

Policy:

Summit BHC and its subsidiaries and affiliates will comply with the federal Eliminating Kickbacks in Recovery Act, the federal Anti-Kickback Statute, similar state laws, and their implementing regulations (collectively “Kickback Laws”). Summit BHC will not give, take, ask for or promise money or anything of value for the purpose of illegally inducing referrals to a treatment program, whether or not the program is a Summit BHC Facility. Activities that should not be considered unless legal analysis has concluded that a specific exception or safe harbor applies, could include:

- paying an employee or contractor a bonus or incentive pay for referrals, admissions or insurance collections;
- buying or selling client leads or lists;
- paying a client broker or interventionist to place clients in a treatment program;
- paying a healthcare professional above-market pay for work actually done (or any pay for work not done), as a reward for referrals;
- gifts of more than nominal value designed to motivate referrals;
- discounts in the form of waived copays or below-market prices outside of legitimate charity care guidelines;
- luxury or other valuable transportation;
- provision of free or below market value housing for outpatient clients;
- waiving the housing fee for outpatient clients outside of the financial hardship policy.

Summit BHC and its facilities, subsidiaries and affiliates will provide training to their Team Members explaining their obligations under this policy, review referral source and marketing arrangements, and from time to time review the activities of the facilities, subsidiaries, and affiliates to ensure compliance.

Procedure:

1.0 Training: Summit BHC will incorporate the key concepts of this policy into its Code of Conduct and Ethics (the Code), which every Team Member must review and acknowledge. Summit BHC and its subsidiaries and affiliates will provide other training specific to the Kickback Laws from time to time.

2.0 Reminder Communications: Summit BHC will periodically remind Team Members, and particularly those in administrative, admissions, business development, business office, and human resources roles of their obligations under this policy

3.0 Confidential Reporting and Investigation: The Code, employee handbook, and posters in Team Member break areas will notify Summit BHC and Team Members of the confidential reporting email box that they can use to report concerns and suspected violations of policy and law. Summit BHC will handle those notices and any investigations of them according to its policies.

4.0 Referral Source Arrangement Review. All financial arrangements with doctors, nurse practitioners, or physician assistants must be reviewed and approved for, among other things, compliance with the Kickback Laws, pursuant to Summit BHC's Contracting Guidelines and Approval Policy BD 001 as well as Summit BHC's policy on Contracting with Physicians and Referral Sources CMP 0014. Summit BHC's General Counsel and Chief Compliance Officer will also review and approve all incentive compensation arrangements with admissions, collections, and business development employees and contractors.

5.0 Periodic Compliance Review. The Compliance Department will conduct periodic reviews of Summit BHC's and its Facilities' conduct as it relates to their obligations under this policy. The results of these reviews will be reviewed by the Compliance Committee, and appropriate remedial action taken if necessary.

Summary of the Kickback Laws

The federal Eliminating Kickbacks in Recovery Act and federal Anti-Kickback Statute are criminal laws that prohibit giving or offering to give, as well as receive or ask to receive, money or anything of value, if even one of the purposes of the payment or gift is to induce or reward the referral of federal health care program business. State anti-kickback laws are substantially similar, and typically apply to government and commercial payor arrangements alike. Such state and federal laws are referred to below as the "Kickback Laws."

Violations of the Kickback Laws are punishable by fines, prison time, and exclusion from federal healthcare programs, and could apply to individuals and businesses. A person does not have to intend to violate the Kickback Laws to be found guilty of violating them.

Exceptions and “Safe Harbors”: Certain financial relationships that might implicate the Kickback Laws are nonetheless permitted if specific criteria are determined to be met. To permit these arrangements, the laws have exceptions and regulatory “safe harbor” rules making them legal. Some that may pertain to Summit BHC’s business are:

- Employment: Employers like Summit BHC cannot pay Team Members in a way that rewards them for referring to, admitting to, or extending the treatment of clients in, a Summit BHC program or another treatment program. Summit BHC may, however, employ doctors, nurse practitioners, physician assistants, clinicians, admissions staff, and business development employees, and even pay them incentive compensation based on other productivity measures as approved by General Counsel.
- Contracted Professional Services: As with its Team Members, Summit BHC may contract for medical, clinical, professional and business development services, for fair market compensation, as long as it does not pay in a way that rewards such contractors for referring to, admitting to, or extending the treatment of clients in, a Summit BHC program or another treatment program.
- Space or Equipment Lease: Legitimate lease of space or equipment, in writing, for defined fair market value, and lasting at least a year.
- Privileging or Credentialing: Rules for allowing a doctor, nurse practitioner, or physician assistant to practice in a facility, as long as those rules do not incentivize referrals or services.
- Supply Discounts and Group Purchasing: These arrangements may be permissible, as long as they do not incentivize referrals or services.
- Waivers of Coinsurance and Deductibles: This is allowed under limited circumstances, as long as the facility does not advertise it, does not do it routinely, does not favor certain payment program participants over others, and does so only when the patient demonstrates a legitimate financial need for the waiver, in accordance with the facility’s charity care policy.
- Transportation. Client transportation is allowed, as long as the facility has a written policy on it, does not advertise it, does not prefer certain payment program patients over others in providing transportation, and does not use luxury vehicles. Unless required by court order or requested or required by a governmental entity or payor, or commercial payor, transportation is limited to: 25 miles in urban areas; and up to a 75 mile radius from the facility in rural areas to provide access to care.

Enforcement. The state and federal governments, as well as individual whistleblowers (using the federal False Claims Act – see Summit BHC’s policy CMP 013 False Claims Act Compliance) can bring investigations and lawsuits alleging violations of the Kickback Laws.

If any Team Member has concerns that any financial relationship with an individual or entity may violate the Kickback laws, there is an obligation under the Code to report this concern to Compliance Department.