Purpose:
It is the Policy of Mennonite Home Communities to comply fully with the federal Physician Self-Referral Law (Stark). This Policy provides information to our Team Members, agents and contractors regarding the Stark and describes Mennonite Home Communities’ policies and procedures for detecting and preventing violations of this law. It is important that our Team Members, agents and contractors understand the provisions of this law and how Mennonite Home Communities strives to comply with such laws.

Policy:
Stark was passed by Congress to prevent referral sources, including physicians, from inappropriately profiting from referrals. Stark prohibits a physician or physician extender from referring a resident for certain designated health services to any entity with which the physician has an ownership interest or compensation arrangement if payments for the services are to be made by the Medicare program. Designated health services include:

1. Clinical laboratory services;
2. Physical therapy services;
3. Occupational therapy services;
4. Outpatient speech-language pathology services
5. Radiology services including ultrasound, MRI and CT scans;
6. Radiation therapy services;
7. Durable medical equipment;
8. Parenteral and enteral nutrients, equipment and supplies;
9. Prosthetics, orthotics and prosthetic devices;
10. Home health services;
11. Outpatient prescription drugs; and
12. Inpatient and outpatient hospital services.

Stark is known as a strict liability statute, which means you can violate it even if you did not intend to do so. This means, that if Stark applies to an arrangement and if the arrangement does not meet an exception of Stark, then both parties have violated Stark. The extent to which parties intended to meet an exception does not affect whether or not the parties have violated Stark. It is very important to make sure that each of Mennonite Home Communities’ financial relationships with a physician or a physician’s immediate family member shall meet a Stark exception, and if possible, meet an Anti-Kickback Statute safe harbor where applicable.

Because Stark is a civil statute, those who violate it cannot be imprisoned. However, as mentioned above, the government does not need to prove intent in order to prove that a person has violated Stark.
Violations can result in repayment of reimbursed services, denial of payment for services and penalties of up to $15,000 per violation and $100,000 per arrangement. If you intentionally violate Stark, you may be excluded from participation in Federal healthcare programs.

**Exceptions**

There are limited exceptions to the Stark Law prohibition that require strict compliance with the elements of the exception. These exceptions include, but are not limited to, the following types of compensation arrangements:

1. Office space rental
2. Equipment rental
3. Compliance training
4. Personal service agreements
5. Transactions that are isolated
6. Incidental benefits for medical staff
7. E-prescribing services
8. Certain donations of EHR items and services
9. Physician recruitment
10. Physician payments
11. Physician charitable donations
12. Non-monetary compensation
13. Risk-sharing arrangements
14. Compensation that is provided indirectly
15. Employment arrangements
16. Certain professional courtesies

**Procedure for Ensuring Compliance**

Any agreement that involves a potential referral source for items or services that will be billed to the Medicare or Medicaid programs, including but not limited to any financial arrangement between Mennonite Home Communities and a physician or group practice whose patients are residents, must be approved in advance by the President in consultation with legal counsel. For example, lease agreements between physicians and group practices are considered financial arrangements and, therefore, must be reviewed and approved by the President in consultation with legal counsel prior to execution.

Specific examples of suspect arrangements include agreements with multiple medical directors without a commercially reasonable business purpose for having multiple medical directors, rental agreements for office space in the facility when the physician has no legitimate purpose for having the office space, and any incentive programs used to award physicians for referring residents to the facility.
Reporting Required

If any Team Member suspects or knows of noncompliance with this policy, he/she is obligated to report the suspected or known noncompliance. The Team Member may report the noncompliance to a supervisor, department head, or the Compliance Official. As indicated in the Code of Conduct, the Team Member may also use the Compliance Hotline to report suspected or known noncompliance. A Team Member who reports suspected or known noncompliance in good faith will not be retaliated against or intimidated for reporting the suspected or known noncompliance.

Investigation into and Response to Noncompliance

Upon notification of potential noncompliance with this policy, the Compliance Official or designee is responsible for directing and overseeing the investigation of the allegation. The Compliance Official will notify the President of any substantiated allegation of noncompliance.

If in consultation with legal counsel, the Compliance Official and President determine that a violation of the Stark law has occurred, Mennonite Home Communities will:

1. Stop submitting claims related to the alleged violation until the violating practices are corrected.

2. In consultation with legal counsel, follow the appropriate federal and state guidelines with respect to notification and repayment, including use of the Self-Referral Disclosure Protocol established under the Patient Protection and Affordable Care Act as appropriate.

3. Determine appropriate corrective measures to avoid future noncompliance.

4. Implement the appropriate corrective measures.

5. Document the investigation and corrective measures implemented.

The Compliance Official will monitor compliance with this policy.