

 <p>THE UNIVERSITY OF NEW MEXICO HEALTH SCIENCES CENTER</p>	Administrative Policy and Procedures
Health Sciences Center	

**CODE OF CONDUCT/ORGANIZATIONAL
ETHICS POLICY**

Primary Age Group: All Ages X
 Newborns Pediatrics Adults

POLICY:

The purpose of this Code of Conduct/Organizational Ethics Policy (hereinafter “Code of Conduct”) is to provide standards by which all HSC faculty and staff will conduct themselves in order to protect and promote HSC-wide integrity and to ensure compliance with the many laws and regulations under which the HSC operates. All employees and third-party affiliates of the HSC are obligated to incorporate the Code of Conduct into their daily performance. As the Code of Conduct is based on federal and state laws and regulations, failing to follow the Code of Conduct, and any operational policies and procedures promulgated to implement this policy, may subject the HSC and/or the individuals involved to criminal and civil prosecution, as well as subjecting employees to disciplinary action up to and including termination. Employees must also comply with all specific policies applicable to their employment.

POLICY CROSS REFERENCE:

- Regents’ Health Sciences Center Compliance Policy
- University Physician Associates Billing Compliance Plan and Associated Policies
- Applicable HSC Clinical Component Policies on Patient Rights and Responsibilities, Medical Records, Confidentiality, Conflicts of Interest, Billing, Others
- Faculty Handbook Provisions Regarding Conflicts of Interest, Human Subjects Research, Research Fraud
- University Business Policies Regarding Conflicts of Interest, Sponsored Project Management Policies; Reporting Misconduct and Retaliation
- Health Sciences Center Medical Staff Bylaws, Rules and Regulations, Policies
- HSC Multiple Project Assurance, Human Research Review Committee (“HRRC”) Investigators’ Manual for Conducting Human Subject Research

- University Business Policy Regarding Contracts Signature Authority and Review.

GENERAL INFORMATION and DESIRED OUTCOME:

1. **Legal Compliance:** The HSC will strive to ensure that all activity by or on behalf of the HSC is in compliance with applicable federal, state, and local laws and regulations.
 - 1.1 HSC faculty and staff will become familiar with, and follow, all applicable requirements related to their patient care, research, and other activities. Among other requirements, HSC faculty and staff will:
 - 1.1.1 Adhere to the New Mexico licensure statutes and regulations applicable to their professional practice, and inform the HSC regarding any change in status or debarment from any governmental program.
 - 1.1.2 Not deny medically necessary care to HSC patients on the basis of their race, creed, color, national origin, ancestry, religion, sex, sexual orientation, marital status, age, handicap or source of payment, or any other classification prohibited by law, nor emergency medical treatment in accordance with EMTALA.
 - 1.1.3 Ensure that bills are submitted for the service of a teaching physician who involves residents or fellows in patient care only where the service and documentation are in accordance with regulations promulgated at 42 C.F.R. Sections 415.150 to 415.184, requiring that the teaching physician 1) personally furnish the service; 2) furnish the service jointly with the resident/fellow; or 3) be physically present during the key portion of a service furnished by the resident/fellow, unless the HSC has obtained an outpatient center exception for the service. In the latter case, service will be provided in accordance with the outpatient exception rule.
 - 1.1.4 Submit bills to third party payers only for medically necessary and reasonable services, which are adequately documented, and in compliance with all applicable legal requirements.
 - 1.1.5 Waive co-payments or deductibles only in accordance with written HSC policies, HSC contractual arrangements, and applicable laws and regulations.
 - 1.1.6 Refrain from conduct that may violate fraud and abuse laws. In particular, no HSC employee will engage in any conduct that involves 1) direct, indirect or disguised solicitation, receipt, or offer of payment,

whether in cash or in kind (e.g., receiving “free” services/products), in exchange for, or which is otherwise intended to induce, the referral of patients or the purchase of products or services, unless such arrangement has been reviewed and approved for compliance by HSC legal counsel; 2) knowingly submitting false, fraudulent or misleading claims or assurances, or being reckless as to the accuracy of such claims or assurances, to any government entity or third-party payer, including claims for services not rendered or which characterize the service differently than the service actually provided, or any other claims or assurances that do not comply with the requirements of a particular program (e.g., falsely certifying medical necessity, “up-coding,” billing outside of teaching physician requirements, billing for non-covered services, failing to refund overpayments made by a health care program, misusing grant funding, etc.); 3) making false representations to any payer, contractor, or governmental entity in any matter; and 4) referring patients to an entity with which the physician employee or a family member has a direct or indirect financial or compensation arrangement, unless the arrangement has been reviewed and approved for compliance with self-referral laws by HSC counsel.

- 1.1.7 Follow all grant or contract requirements for conducting funded research, including but not limited to those governing effort reporting, use of funds and allowable costs, cost transfers, and program income.
- 1.1.8 Refrain from submitting bills to federal government payers for investigational drugs or devices (except Class B medical devices and Group C drugs if permitted in accordance with applicable rules, unless otherwise permitted by written policy of the payer), or for services provided to research subjects solely for research purposes or that have been paid for by a grant.
- 1.1.9 Submit all proposed research (including reviews of medical records and use of existing patient samples) to the HRRC prior to initiation and follow HRRC policies and procedures, and conduct all research in accordance with the HSC Multiple Project Assurance and applicable laws and regulations.
- 1.1.10 Avoid conflicts of interest and any appearance of impropriety in dealings with vendors and with private and public entities providing funding for HSC programs. HSC employees will conduct all transactions with third parties free from offers or solicitations of gifts, favors, or other improper inducements in exchange for business or assistance, and will notify the HSC of any of their own outside interests (such as ownership, directorship, or financial interest in a

company contracting with the HSC) that may raise a conflict of interest issue. Vendors and other contractors will be expected to comply with HSC policies and state and federal laws and regulations applicable to their dealings with the HSC and its patients, faculty and staff.

1.1.11 Protect the rights of HSC patients and research subjects to privacy and to confidentiality of their medical records, including electronic records, in accordance with applicable federal and state laws and regulations and accreditation standards. HSC employees will utilize patient medical records solely for legitimate business or patient care purposes, or HRRC approved research, and will not engage in unauthorized review or disclosure of medical records.

1.1.12 Seek advice from the HSC Compliance Director, a Compliance Officer, or HSC legal counsel regarding any questions on the existence or interpretation of any law relevant to the employee's activities. If there is any compliance-related inquiry from any agency or other external source, HSC faculty and staff will promptly notify one of these persons for advice.

1.2 HSC faculty and staff will refrain from signing contracts for research or patient care services, purchases, or other arrangements unless they are individuals who have been officially authorized to sign such contracts under a delegation of authority pursuant to the University's Contracts Signature Authority and Review Policy.

2. General and Business Ethics Requirements:

2.1 HSC faculty and staff will comply with the highest standards of medical and business ethics in interactions with patients, families of patients, visitors, colleagues, contractors, government regulatory agencies, and the community. Employees and third-party affiliates will accurately and honestly represent the HSC and its capabilities, and their relationship to the HSC, and will refrain from disparaging the capabilities of other providers.

2.2 HSC faculty and staff owe a fiduciary duty of loyalty to the HSC. HSC faculty and staff will not usurp business opportunities of the HSC, nor utilize their HSC position or knowledge obtained through their position to profit personally or to assist others to profit at the expense of the HSC. HSC faculty and staff will safeguard HSC resources and use facilities, equipment, supplies, and other resources only for valid HSC purposes, unless otherwise approved in accordance with written UNM and/or HSC policies.

- 2.3 HSC faculty and staff will treat patients and research subjects, visitors, faculty, staff, students, and others having interactions with the HSC with dignity, respect, and courtesy, and will foster an environment of trust and safety for HSC patients.
- 2.4 The HSC will strive to provide medical services to meet the identified needs of its patients and in furtherance of its educational and research mission, adhering to the highest possible uniform standards of care, consistent with available resources, and will advise patients of appropriate therapeutic alternatives. Clinical decision-making will not be inappropriately influenced by economic factors and/or risk arrangements with third-party payers.
- 2.5 The HSC will provide services only to those patients to whom it can safely provide care within HSC facilities, and, if medically necessary, will arrange for transport to another facility where medically necessary care can be provided, consistent with applicable laws and regulations.
- 2.6 To the extent possible and appropriate, the HSC will permit each patient or his or her designated representative to participate in planning for the patient's care at the HSC and after discharge from HSC facilities.
- 2.7 The HSC will provide patient advocacy and social services, and will arrange for biomedical ethics consultations, as appropriate.
- 2.8 Patients who are hospitalized at HSC facilities for a lengthy stay, and whose condition warrants, may perform or refuse to perform tasks in or for the facility, appropriate to their medical condition and therapeutic goals.
- 2.9 The HSC will perform discharge planning for patients to try to ensure that patients have continuity of care after discharge, as appropriate for their condition, and to provide unbiased information to patients about resources available to them after discharge.
- 2.10 The HSC will bill patients only for services that were actually delivered, in compliance with applicable federal and state laws and regulations, and will provide bills to patients and their third-party payers that itemize services delivered, applicable charges, and dates of service. The HSC will bill patients in accordance with uniform charge schedules, as required by applicable laws and regulations. Where discounted payments will be accepted from patients' third-party payers, under written contracts, the HSC will calculate cost-share amounts due from patients in a fair, honest, and ethical manner, based on requirements of those contracts.

2.11 The HSC will provide information to patients who request assistance in understanding the cost of their care and will attempt to resolve questions and objections to the satisfaction of payments. The HSC will provide financial assistance information to patients, as required, and will attempt to assist patients in qualifying for financial assistance. The HSC will handle billing disputes with patients in a prompt, fair, courteous and honest manner.

3. **Affirmative Responsibility:** HSC faculty and staff will promptly notify the HSC Compliance Director or another appropriate high level employee, HSC legal counsel, or the University Internal Auditor as applicable, of any possible violations of the law or other improper activity by HSC employees or third-party affiliates.
4. **Non-Retaliation:** HSC faculty and staff will refrain from taking any adverse action against any person who reports in good faith a suspected violation or concern arising under this Code of Conduct.
5. **Applicability:** This Code of Conduct applies to all HSC clinical and academic components and employees, the HSC Medical Staff, and University Physician Associates. To the extent feasible, this Code of Conduct will also apply to HSC contractors and vendors.

PROCEDURE:

1. The HSC will develop and implement related policies and procedures to give full effect to this Code of Conduct at every appropriate level of the HSC. Any such policies and procedures will be deemed to be incorporated by reference herein.
2. The HSC will publish this Code of Conduct on its website for all HSC employees. Each HSC component will develop mechanisms for training faculty and staff of those components in requirements of the policy and will make semi-annual reports to the Vice President for Health Sciences regarding the implementation and evaluation of those training mechanisms.
3. HSC faculty and staff who fail to adhere to this policy will be subject to disciplinary action, which may include termination, if appropriate.

REFERENCES:

(Indicate if reference is R = Research; NS = National Standard; or L = Literature)

REG: JCAHO Standards for Accreditation of Hospitals

REG: New Mexico statutes and regulations related to licensure of health care facilities and professionals, conflicts of interest, inspection of public records, open meetings, fair trade

practices, confidentiality of patient records and peer review activities, procurement of goods and services by government entities, Medicaid fraud, and others related to this policy.
REG: Federal statutes and regulations governing conditions of participation of hospitals in Medicare and Medicaid, billing practices, confidentiality of patient records, fraud and abuse, referrals for health care services, protection of human subjects in research, research fraud and conflict of interest, nondiscrimination, fair trade practices, and others related to this policy.

/s/ Stephen McKernan 10/19/00
Stephen McKernan, Associate Vice President for Clinical Operations Date

/s/ Paul Roth, M.D. 10/13/00
Paul Roth, M.D., Associate Vice President for Clinical Affairs Date

/s/ Robert Earnest 10/24/00
Robert A. Earnest, Interim Associate Vice President for Finance & Administration Date

/s/ R. Philip Eaton, M.D. 10/13/00
R. Philip Eaton, M.D., Interim Vice President for Health Sciences Date

Development Date: July 7, 1999
Developed by: HSC Legal Counsel
Revised Date: October 10, 2000
Reviewed By: Stephany Wilson, Senior Associate
University Counsel
Approved By: Vice President for Health Sciences
Approved Date: October 13, 2000

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