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**MISSION HOSPITAL REGIONAL MEDICAL CENTER**  
A Sisters of St. Joseph of Orange Corporation

**HOSPITAL POLICY**  
Corporate Responsibility Program

**Title:** Corporate Responsibility Program

**Code:** CRP-2007NOV-1.6

**Title of Responsible Party:** Corporate Compliance Officer

**Origination Date:** 1/1999

**Effective Date:** 11/2007

**Review:** 11/2007

**Scope:** All hospital departments of Mission Hospital

**Purpose:** To describe the function and role of the Corporate Responsibility Program.

**Text:**

1 Introduction

Mission Hospital exists to extend the Catholic health care ministry of the Sisters of St. Joseph of Orange. Further, Mission Hospital seeks to accomplish this mission in a manner consistent with the St. Joseph Health System's four core values of Dignity, Excellence, Service and Justice (see Directional Statements). Compliance with relevant law applicable to health care providers, as well as the formal adoption and implementation of policies and procedure intended to assure such compliance, serves as a foundational minimum for how Mission Hospital and staff accomplish our mission and strategic goals.

2 Purpose

The Corporate Responsibility Program ("the Program") seeks to formally adopt and implement policies and procedures intended to assure compliance with federal and state laws which include, but are not necessarily limited to, prohibiting unlawful referrals, false billing

claims, inurement, fraud and abuse, and corporate practice of medicine. Additionally, the Program seeks to provide education relative to compliance, to promote compliance through written standards of conduct, to share best practices, and to appropriately monitor compliance and improve SJHS mechanisms and operations relating to compliance.

3 Scope and Applicability - The Program shall apply to all departments and services that make up Mission Hospital. The Program shall apply to all SJHS entities, including those for whom SJHS is a corporate member (“SJHS Owned Entities”), those for whom an SJHS Owned Entity is a corporate member or a majority interest holder, and those with which an SJHS Owned Entity has a currently effective lease or management agreement. Other SJHS-affiliated organizations not specifically included in the aforementioned categories may also be included within the scope of the Program upon the recommendation of SJHS legal counsel and upon formal adoption of the Program by the governing body of that organization.

#### 4 Background

4.1 Regulatory – Health care constitutes a significant part of the United States’ economy. Further, entitlement programs for health care services comprise an ever-growing percentage of governmental budgets. As governments attempt to balance budgets while refraining from making unpopular cuts in benefits affecting voting constituencies, regulations are promulgated to eliminate waste, fraud and abuse of such government-supported programs. As a result, health care is one of the most regulated industries in this country.

Further, regulations affecting the health care industry are sometimes drafted in reaction to highly publicized, but rare and isolated events. Such reactionary legislation has a tendency to be over-board, poorly implemented and in conflict with other regulations. Organizations that seek to comply in good faith with a myriad of complex and confusing regulations need guideposts such as the Program to assist them.

While there are many reasons, most notably SJHS’s values, to establish and implement mechanisms to ensure compliance with relevant regulations, there are also risk management incentives for doing so. The following list includes some of the more significant regulatory risk management issues.

4.1.1 The Sentencing Reform Act of 1984 created the U.S. Sentencing Commission and gave it broad powers to establish mandatory sentencing guidelines that must be followed by all federal judges in order to have greater uniformity and predictability in federal sentences. In 1991, the guidelines were expanded to include an elaborate point system for sentencing of organizations. Calculation of organizational fines and sentences includes a “culpability score.” Central to determining an organization’s culpability score are “the steps taken by the organization prior to the offense to prevent and detect criminal conduct” (quoting from Section 8 of the Sentencing

Guidelines). Failure to have an effective compliance program necessitates court imposition of a minimum sentence of probation of one to five years, plus the implementation of a court-approved compliance program. The most extreme risk associated with this Act is the court imposed divestiture of all organizational assets (the so-called “corporate death penalty”).

- 4.1.2 The Medicare Fraud and Abuse Amendments to the Social Security Act allow federal regulators to assess civil and criminal penalties for corporate fraud arising out of participation in the Medicare and Medicaid programs. However, exclusion from the Medicare/Medicaid programs (a health care provider’s “death penalty”) is a grater risk if corporate conviction is coupled with the lack of compliance program.
- 4.1.3 The Internal Revenue Code prohibits private benefit (i.e., incurrence) of a tax-exempt organization’s charitable assets. Organizations that made access payments for goods or services prior to 1996 which were determined to have resulted in forbidden incurrence faced loss of exempt status. The problem with this enforcement mechanism was that it was usually too drastic to reasonably impose, especially since loss of exempt status did nothing to punish the individual who benefited illegally. In 1996, the Taxpayers Bill of Rights 2 was passed and gave the Internal Revenue Service (IRS”) the power to impose intermediate sanctions in the form of excise taxes on those persons who received such excess benefit. The opportunity to impose such taxes is likely to result in greater IRS attention to the transactions entered into by tax-exempt organizations. It is also anticipated that the IRS will have the ability to abate such excise taxes if a violation was not willful and the organization has corrected the transaction at issue. The Program will undoubtedly establish safeguards to prevent excess benefit transactions.
- 4.1.4 The False Claims Act provides that anyone who presents a false or fraudulent claim to the government is liable for a civil penalty of \$5,000 to \$10,000 per claim plus treble damages. As coding for health care services to Medicare and Medicaid beneficiaries has become more complex and confusing, avoiding inadvertent false claims has become more difficult. Federal collections under this Act have dramatically increased in recent years (e.g., \$1.1 billion in 1994); giving federal enforcement agencies a financial incentive to continue investigative activities.

Additionally, the False Claims Act permits private citizens to initiate actions in the name of the government – so called “qui tam” lawsuits – with a “bounty” of 15-25% of whatever is recovered. The option of reporting billing practices that are of concern, as emphasized and described in a corporate responsibility/compliance program, gives staff an alternative to a qui tam lawsuit and, further, calls into question any qui tam claim. In other words, why would a qui tam claimant choose to violate the corporate responsibility/compliance program by failing to report concerns?

- 4.1.5 The Health Insurance Portability and Accountability Act of 1996 establishes a fraud and abuse control program with respect to health plans (broadening

fraud and abuse applicability to service providers who are eligible to receive payment from private, non-governmental payors). This new program will be funded by recoveries from health care fraud investigations. One of the stated goals of this program is to conduct and coordinate investigations, audits, evaluations and inspections with regard to compliance with federal, state and local regulations; thus, enhancing enforcement capability at all such levels. The existence of an effective corporate responsibility/compliance program will likely result in more lenient treatment under these regulations.

4.1.6 The Omnibus Budget Reconciliation Acts of 1989 and 1993 included prohibitions against physician self-referral (the so-called Stark I and II laws). Stark I prohibited a physician from referring Medicare patients to a laboratory in which that physician or a member of that physician's immediate family has a financial relationship, and prohibited the laboratory from filing claims against the Medicare program for services resulting from such a referral. Stark II expanded this anti-referral law to other designated health services as well as to Medicaid services. Stark violations do not require a showing of intent; in other words, an inadvertent or unintended referral in violation of this prohibition is enough to justify a civil monetary penalty of between \$15,000 to \$100,000.

4.2 SJHS Historic Mechanisms – The SJHS and Mission Hospital have employed a number of practices to ensure compliance with relevant law. For example, Mission Hospital has historically required all transactions involving physicians (who are likely to be considered “insiders” for purposes of hospitals at which they hold privileges to practice) to be reviewed and approved by corporate legal counsel and to be supported by independent appraisals.

Additionally, all SJHS entities have adopted and implemented a conflict of interest policy. Regular education, in both written and presentation formats, has been provided to SJHS entity staff to encourage sensitivity to such compliance issues and avoid inadvertent non-compliance. Regular meetings of SJHS finance executives have resulted in not only education about billing practices that comply with relevant law, but also to sharing of best practices about monitoring and implementation of other legal requirements.

Annual audits performed by SJHS auditors help SJHS finance staff identify how practices might be improved. The due diligence review by SJHS bond counsel during SJHS financing has provided an additional external monitoring function. These reviews also provide a self-correcting and practice-improvement opportunity with the help of outside counsel.

## 5 Standards, Policies and Procedures.

The standards, policies and procedures included in the Program, as it may be modified from time to time, are set forth in the table of contents of the Mission Hospital Compliance Manual. These standards, policies and procedures apply to the entities described in the “Scope” section above, and to the employees and other agents of those entities. Compliance with the Program is a condition of Vendors with SJHS and SJHS entities, and the Program includes policies to protect the anonymity of reports of compliance concerns as well as prohibit retaliation against them.

## 6 Reporting Obligations.

Businesses and organizations (Business Partners) that choose to have a business relationship with Mission Hospital have the responsibility and obligation to be knowledgeable of elements of the Mission Hospital Corporate Responsibility Program and comply with all related policies and standards. Representatives of Business Partners have an ongoing obligation to comply with and report concerns about compliance with the standards, policies and procedures which are part of the program. Such reports shall be promptly made verbally or in writing to the Local Compliance Officer of the specific Ministry. In no event shall any individual who reports a concern be subject to any retribution to a report which he or she reasonably believed to be true and offered in good faith. Confidentiality shall apply to the report and to the person making the report, through investigation of the report may necessitate reasonable disclosure on “need-to-know” basis. Compliance concerns shall be promptly reported to special anonymous toll-free voice mailbox at (877) 808-8133 or directly to Chief Compliance Officer( if anonymity is not desired) at (949) 365-2248.

## 7 Corporate Responsibility Compliance Officer.

The person serving as General Counsel of SJHS shall serve as the Compliance Officer. The Compliance Officer and/or designee(s) shall be responsible for receiving and processing reports of compliance concerns. Compliance concerns shall be promptly reported to a special anonymous toll-free voice mailbox at (877) 808-8133, or directly to the Compliance Officer (if anonymity is not desired) at (714) 516-3112. The Compliance Officer shall have the authority and discretion to call an ad hoc meeting of the Compliance committee to consider the results of an investigation and make a recommendation to the appropriate governing body. The Compliance Officer shall comply with the SJHS Conflicts of Interest Policy with specific regard to compliance issues. As a result, the Compliance Officer shall have authority to “conflict out” and delegate Compliance Officer responsibilities to either in-house counsel, outside legal counsel, or non- attorney corporate staff, as appropriate and as consistent with the Conflicts of Interest Policy. Additionally, the compliance Officer shall be responsible for the following:

- 7.1 Providing oversight and guidance for Mission Hospital on matters relating to compliance, and identifies areas of compliance vulnerability with specific direction as to address problematic areas and issues;
- 7.2 Taking appropriate action to ensure achievement of the objectives of an effective compliance program by means of reviews, training, consistent enforcement and implementation of corrective action/continuous improvement;

- 7.3 Reviewing and updating on a periodic basis the standards, policies and procedures for currency and relevancy to compliance issues;
- 7.4 Promotes knowledge about and use of the special voice mailbox/"hotline" for reporting compliance concerns;
- 7.5 Oversees systems for uniform application and enforcement of standards, policies and procedures for compliance and, where appropriate, reports potential violations to authorized agencies; and
- 7.6 Performs those functions as may be assigned from time to time by the Compliance Committee and by the Budget Committee of the SJHS Board relative to the Program.

## 8 Local Compliance Officer:

Mission Hospital designates an individual whose responsibilities shall include serving as local compliance officer. The local compliance officer shall report to the SJHS Compliance Officer on matters pertaining to the Program. The local compliance officer's primary responsibilities shall include serving as local compliance officer. The local compliance officer shall report to the SJHS compliance Officer on matters pertaining to the Program. The local compliance officer's primary responsibilities shall include overseeing and monitoring the implementation of the Program in that SJHS entity, reporting any compliance concerns to the SJHS Compliance Officer, and referring those who prefer to anonymously report compliance concerns to the SJHS Compliance Officer. Additionally, the local compliance officer shall coordinate with Human Resource staff the implementation of polices to ensure background checks on staff (employees, medical staff, independent contractors and vendors) are performed so as to avoid employment of or other types of arrangements with sanctioned individuals or organizations. Finally, the local compliance officer shall cooperate with the SJHS Compliance Officer in the performance of internal compliance review, audit and monitoring activities.

## 9 SJHS Compliance Committee

The Compliance Committee shall be comprised of the SJHS Chief Executive Officer, General Counsel, Chief Financial Officer, Chief Operating Officer, a hospital CEO, a physician, a SJHS Board trustee, a SJHS-entity trustee, a human resources executive, and a member of the Sisters of St. Joseph of Orange. The Compliance Committee shall meet at least annually and as called on an ad hoc basis by the Compliance Officer. Mission Hospital will maintain a Compliance Committee for the purpose of providing consistent attention to the effectiveness of the Program through monitoring the Program's goals and outcomes, and for coordinating investigations as necessary to address compliance concerns. As with the Compliance Officer, each member of the Compliance Committee shall comply with the Conflicts of Interest Policy in satisfying the obligations inherent in serving on this committee. The Compliance Committee shall also be responsible for addressing and external report of non-compliance to relevant authorities. Additionally, the Compliance Committee shall be responsible for the following. (see Mission Hospital Compliance Committee, CRP-2008OCT-1.5.)

- 9.1 Ongoing evaluation of SJHS values, culture and areas of compliance vulnerability as perceived by executives, management and other employees;
- 9.2 Ensuring proper evidencing of the Program's effectiveness;
- 9.3 Establishing heightened awareness of compliance issues, especially in relation to improving employee skills in dealing with these issues;
- 9.4 Assuring appropriate infrastructure exists for administration of the Program; and
- 9.5 Monitoring the standards, policies and procedures and their continuing relevance to compliance and to employees.

## 10 Reporting Obligations

Each employee and other agent of every entity to which the Program applies shall have an ongoing obligation to comply with and to report concerns about compliance with standards, policies and procedures, which are part of the Program. Such reports shall be promptly made verbally or in writing to the Compliance Officer. In no event shall any individual who reports a concern be subject to any retribution related to a report which he or she reasonably believed to be true and offered in good faith. Confidentiality shall apply to the report and to the person making the report, though investigation of the report may necessitate reasonable disclosure on a "need-to-know" basis.

## 11 Education and Training Obligations

SJHS leadership, the SJHS Compliance Officer and the Mission Hospital Compliance Officer shall have the responsibility to ensure that education and training is available to SJHS employees and other agents of every entity to which the Program applies. Those employees and other agents responsible for business development and billing shall be required as a condition of working with SJHS to avail themselves of education and training on a regular and periodic basis (at least annually). Such education and training shall focus on the Program itself; the rationale for its adoption and the importance of compliance; the standards, policies and procedures included in the Program; and reporting obligations and options. Documentation of the content of, audience and method of education and training provided shall be maintained by the local compliance officer for each SJHS entity to which the Program applies.

## 12 Implementation Plan

The Program, as it may be amended from time to time, shall be reviewed and approved by the Compliance Committee and adopted by the SJHS Board of Trustees. The amended Program shall be presented ("presented" as used herein refers to an oral and written presentation with the opportunity for questions and answers) to each board of the SJHS entities to which the Program applies for adoption. Thereafter, the amended Program shall be presented to the management teams of each SJHS entity, to the Fiscal Services Committee, and to Human Resource executives of each SJHS entity. Individuals with primary responsibility for business development shall receive focuses education and Program updates. Further, ensuring compliance with the spirit and provisions of the

Program shall be included in the individual performance goals of each SJHS manager and all CEOs of SJHS Entities.

### 13 Program Updates

The Program shall be reviewed on an annual basis by the Compliance Officer with a report to the Compliance Committee. The Compliance Committee shall recommend modifications and the Program shall be updated as necessary. The updated Program shall be presented to the SJHS Board for its review and approval annually, and then disseminated in a manner consistent with the Implementation Plan and other ongoing education and Training activities relative to the Program.

### 14 Mission Hospital Annual Work Plan

The Mission Hospital Corporate Responsibility Program will maintain a work plan that is updated atleast annually and contains the following:

- 14.1 Changes in the Corporate Responsibility Program.
- 14.2 Status report of key elements in the plan.
- 14.3 Performance of monitors and indicators.
- 14.4 Status of corrective actions
- 14.5 Objectives for the coming year.

**Committee Review:** Mission Hospital Compliance Committee

### **References:**

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Approval: Department Head  
Medical Staff  
Administration  
Board of Trustees

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