

Compliance Handbook



Banner Health®





Banner Health[®]

Our Nonprofit Mission

We exist to make a difference in people's lives through excellent patient care.

Our Values

We Value:

People above all...

by treating those we serve and each other with compassion, dignity and respect.

Excellence...

by acting with integrity and striving for the highest quality care and service.

Results...

by exceeding the expectations of the people we serve and those we set for ourselves.

Our Vision

We will be a national leader recognized for **clinical excellence and innovation**, preferred for a highly coordinated patient experience, and distinguished by the quality of our people.

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Banner Health Compliance Program

Banner Health (“Banner Health” or “Banner”) is committed to possessing and demonstrating the reliability, honesty, trustworthiness and high degree of integrity expected of a leading healthcare organization and a participant in federally funded health-care programs. To help strengthen this commitment, Banner has implemented its Compliance Program.

Purpose

The Banner Health Compliance Program clarifies the organization’s expectation that all employees will adhere to applicable laws governing their behavior. It also provides examples of how the organization will do business in certain situations.

The Banner Health Compliance Program ensures the organization meets the requirements of the Federal Sentencing Guidelines for Organizational Defendants and the advice of the Office of the Inspector General of the United States Department of Health and Human Services.

The Compliance Program also ensures Banner can seek reimbursement for services provided to Medicare and Medicaid participants. The government acts as a trustee by distributing money designated to fund the health-care expenses of Medicare and Medicaid participants. Like any trustee, the government takes great care to ensure that these funds are distributed appropriately and that the health-care providers, who seek reimbursement from Medicare and Medicaid, do so in accordance with the law.

Finally, the Compliance Program helps ensure uniformity across Banner. The Compliance Program and the policies and procedures that make up the Compliance Program apply equally to employees at all Banner facilities and organizations.

Identifying a Compliance Issue

It is not uncommon for us to come across situations where we aren’t quite sure what to do or we feel that what is happening is not quite right. No compliance program and no law or regulation can address all the situations that might occur in the health-care environment. Ultimately, it is up to each one of us to apply the general principles we have learned in our compliance training, and if we aren’t sure, ask for help! No one at Banner Health should ever have to struggle alone with a compliance question or concern.

If you are unsure about the legality or the appropriateness of an action or a proposed action, think of the following:

- Does it comply with the law and Banner’s compliance policies and procedures?
- How would it make you feel if you did it?
- How would it look to your family and friends, your coworkers or our patients and the community?
- How would I feel if I did it?

If you know its wrong, don’t do it! If you are not sure, ask. And keep asking until you get an answer that makes sense. Get the right answer, not just the easy answer.

Resolving a Compliance Issue

Many resources are available to help employees resolve compliance issues:

Compliance Documents: The answers to many questions can be found in the various Banner Health compliance policies and procedures. These policies and documents can be found on the Ethics & Compliance intranet web page.

The Four-Step Communication Process: For compliance questions or concerns that cannot be resolved by reviewing the various Banner compliance documents, discuss the issue with your supervisor, manager or another higher-level supervisory employee. Seek to resolve the compliance problem promptly, constructively and at the lowest level possible by following these four steps:

1. **Discuss the issue with a supervisor.** Supervisors are familiar with the particular workplace environment and its issues. Therefore, they should be given the first opportunity to resolve the matter.
2. **Speak to the department manager.** If you and your supervisor cannot resolve the matter, if you feel that your concern is not getting the proper attention, or if your supervisor is the issue, you should request a meeting with your Department Manager or Director to discuss the matter further.
3. **Speak to a Facility Compliance Officer, Human Resources Department, and/or your CEO.** If your Department Manager or Director is unable to resolve the matter to your satisfaction, you should contact your Compliance Officer or Human Resources Department, or alternatively, you may elect to bring the matter directly to your CEO or Senior Executive. The Ethics & Compliance intranet website lists the Facility Compliance Officers.
4. **Bring the matter to the attention of the Ethics & Compliance Department or the Legal Department.** Matters that are not resolved at the facility level should be brought to the attention of the Ethics & Compliance Department or the Legal Department.

Reporting a Compliance Issue

Each employee is obligated to report any issue or practice that he or she believes in good faith may constitute a violation of law or Banner's compliance policies. People who are found to have engaged in unlawful conduct or conduct in violation of Banner's policies, or who have failed to detect, report and/or correct any offense, are subject to corrective action, up to and including termination of employment.

To report a compliance issue, follow the Four-Step Communication Process described above. If an employee feels uncomfortable reporting a compliance issue to his or her supervisor or any other Banner or organization-specific manager, he or she may call the ComplyLine.

The ComplyLine: Banner's compliance hotline (888-747-7989) **and website**

<https://bannerhealthcomplyline.alertline.com> is available to all Banner Callers. Calls to the ComplyLine will not be traced and will be treated confidentially. Employees may remain anonymous if they choose and to the extent allowed by law. No caller will be subject to retaliation for bringing forth a good faith concern. Anyone who attempts to retaliate against an employee who has in good faith made a call to the ComplyLine will be subject to corrective action, up to and including termination of employment.

The ComplyLine is toll-free from anywhere in the United States. It is answered 24 hours a day, 7 days a week by an operator who is trained to take your report of suspected illegal or unethical activity. A call to the ComplyLine will satisfy your obligation to report suspected illegal or unethical activity to a compliance officer.

The ComplyLine is intended to supplement existing internal communication channels. It is not intended to replace the local management team or the Four-Step Communication Process outlined above. The ComplyLine is available when employees feel they have exhausted normal channels or are uncomfortable about bringing an issue to their supervisor or manager. Inquires about an investigation can be obtained with the Report Number and PIN by logging into <https://bannerhealthcomplyline.alertline.com>.

Failing to Act in Accordance with the Compliance Program

The Compliance Program helps ensure that Banner Health follows applicable laws, regulations and Banner's compliance policies. Therefore, the consequences of not acting in accordance with the Compliance Program are significant for the employee as well as Banner.

Banner, its member organizations and the employee may be subject to criminal and/or civil prosecution resulting in payment of fines and/or imprisonment. In addition, Banner, its member organizations and the individual may be excluded or suspended from participation in any federal or state government health-care program. Finally, any employee who fails to adhere to the Compliance Program will be subject to corrective action, such as a verbal or written reprimand, paid or unpaid suspension or even termination of employment.

Principal Documents of the Banner Health Compliance Program

The principal documents that make up the Banner Health Compliance Program are the following:

Banner Health Compliance Program Obligations Policy

The Compliance Program Obligations Policy was adopted by the Banner Health Board of Directors. The Policy establishes a management structure to oversee and monitor Banner's compliance activities. The Policy requires that all facilities, business areas and functional areas of Banner, and all employees and agents within those areas, exercise due diligence to prevent, detect and report unlawful conduct or conduct in violation of Banner's compliance policies.

Banner Health Corporate Compliance Plan

The Corporate Compliance Plan (the "Plan") is a document specifically tailored to Banner that specifies the various compliance personnel, documents and activities that make up the Compliance Program. The Plan discusses the designation of compliance personnel and establishes their responsibilities and duties, the development and distribution of compliance policies and procedures, how Banner will conduct its compliance education and training activities, the compliance communication lines established for employees to use in obtaining answers to their compliance questions or concerns, the enforcement standards and disciplinary guidelines for compliance violations and the various compliance auditing and monitoring activities that Banner will use to ensure that its compliance policies and procedures are operating effectively and are being followed by its employees.

Banner Health Compliance Handbook

The Compliance Handbook summarizes Banner's Compliance Program, provides instructions on how to identify, resolve and report compliance issues, and contains general compliance guidelines that all employees must follow.

Banner Health Ethics & Compliance and Legal Department Policies

The Ethics & Compliance Department and the Legal Department have specific compliance and legal policies that apply throughout Banner Health. A list of all these policies are located on Banner's intranet under Policies and Procedures or they can be found on the Ethics & Compliance intranet web page.

Banner Health HIPAA Privacy and Security Compliance Policies

Banner Health's HIPAA Privacy and Security Compliance policies are located on Banner's intranet under Policies and Procedures. These policies provide guidance to Banner staff regarding using and disclosing patient information in the medical record, the electronic patient record, or in conversations.

Banner Health's Research Institute Compliance Policies

Banner Health's Research policies are located in Banner's intranet under Policies and Procedures Database. They discuss Banner's requirements and procedures for the conduct of research.

Management of the Banner Health Compliance Program

The Compliance Program was created at the direction of Banner's Board of Directors. The Audit Committee of the Board oversees the operation of the Compliance Program and receives regular reports from Banner's Chief Compliance Officer. All Banner leaders, from the Board of Directors to the Facility Compliance Officers in every Banner Facility are important to Banner's compliance efforts.

The Compliance Program is essential to Banner Health's future success. Therefore, all employees, as well as all persons and entities retained and authorized to act on behalf of Banner ("agents"), are responsible for understanding and following the compliance policies that make up the Compliance Program.

Managers and supervisors must consistently enforce and communicate Banner's compliance policies to all employees and agents within their business areas. Finally, every employee and agent is responsible for detecting, resolving and reporting to the appropriate Banner management unlawful conduct that may violate the Compliance Program or Banner's compliance policies.

Certain persons and departments within Banner and its members specifically have been charged with management of the Compliance Program. These persons and departments serve as resources to all employees to ensure that the Compliance Program and Banner's compliance policies are implemented and enforced consistently. They are the:

- Vice President of Ethics & Compliance and Chief Compliance Officer
- Ethics & Compliance Department Compliance Officers
- System Ethics & Compliance Committee
- Banner Health Audit Services Department
- Banner Health Legal Department
- Facility Compliance Officers and Committees
- HIPAA Privacy and Security Support

Vice President of Ethics & Compliance and Chief Compliance Officer

The Vice President of Ethics & Compliance acts as Banner Health's Chief Compliance Officer and is responsible for overseeing Banner Health's compliance activities.

Ethics & Compliance Department

The Ethics & Compliance Department is led by the Vice President of Ethics & Compliance. This Department is responsible for the day-to-day management and administration of the Compliance Program, such as: developing ethics and compliance policies, procedures and training; managing the ComplyLine; reporting auditing and monitoring compliance issues; and verifying corrective action plans for areas of non-compliance.

The Ethics and Compliance Department can be contacted by mail at: Ethics & Compliance Department, Banner Health Corporate, 2901 N. Central Ave., #160, Phoenix, AZ 85012, by phone at 1-602-747-8052 or by Fax at 1-602-747-3728.

Banner Health System Ethics & Compliance Committee

The Banner Health System Ethics & Compliance Committee provides advice, oversight and guidance to the Chief Compliance Officer on matters relating to Banner's Compliance Program. The Committee consists of the Chief Compliance Officer and the General Counsel as well as executive representatives from Audit Services, Billing and Reimbursement, Finance, Medical Affairs, People Resources, Purchasing, and Risk Management departments of Banner.

Other members include Ethics and Compliance Department Compliance Officers and Facility Compliance Officers and others that may be designated from time to time by Banner's President and Chief Executive Officer.

Banner Facility Compliance Officer Committee

The Banner Facility Compliance Officer Committee provides advice, oversight and guidance to the Facility Compliance Officers on compliance policies, education, auditing and monitoring. The Committee consists of the Chief Compliance Officer, Compliance Officers, Facility Compliance Officers and representatives from HIMS, Human Resources, Home Health, Patient Financial Services, Legal, Physician Billing, and Banner Medical Group.

Facility Compliance Committees

Each Banner hospital and each significant business unit (collectively referred to as "facility") not connected to a hospital, must have a compliance committee to address facility-specific compliance issues, and to provide oversight to the facility's implementation and operation of Banner's compliance program. The Facility Compliance Committee's primary objective is to facilitate the effective operation of Banner's Compliance Program in the facility. This will be accomplished through a combination of creating a culture within the facility and of overseeing implementation of components of the Compliance Program.

In addition, the Facility Compliance Committees will review policies and procedures, ComplyLine call summaries for trends affecting the facility, review compliance education and training completion reports, communicate compliance related trends to facility management, assist in identification of needed auditing and monitoring activities within the facility, conduct periodic assessments of the effectiveness of the facility's compliance program, report on compliance violations that may affect facility operations, and provide oversight of the employee and vendor-screening process.

HIPAA Privacy and Security Support

To assist Banner employees resolve HIPAA compliance issues (privacy, security, transaction and code sets, national provider identifiers), Banner has a System Director of HIPAA Compliance who serves as Banner's Chief Privacy Officer. In addition, Banner has a System Director of Information Security, a system-wide HIPAA Steering Committee and HIPAA Facility Contacts.

Responsibilities under the Banner Health Compliance Program

Responsibilities of Banner Health

As an organization committed to compliance, Banner Health has assumed certain responsibilities:

- Develop compliance documents to provide employees with guidance on matters of daily business conduct.
- Ensure that the compliance documents are accessible to all employees, officers and directors.
- Establish and maintain training programs to ensure familiarity with and understanding of compliance requirements.
- Advise employees, officers and directors on the proper interpretation and application of the Compliance Program.
- Administer the Compliance Program and its supporting policies in a fair and timely manner
- Ensure a working atmosphere conducive to compliance and free of retaliation for the reporting of alleged violations of Compliance Program.

Responsibilities of Banner Health Employees

Everyone has an obligation to ensure that the Compliance Program is a success. Employees can help to achieve that success by doing the following:

- Read and regularly review Banner Health's compliance documents to fully understand the compliance requirements that apply to his or her job.
- Participate in training programs and staff meetings designed to help him or her understand his or her obligations under the Compliance Program.
- Abide by the requirements set forth in the Compliance Program's policies and procedures.
- Ask questions and seek assistance when he or she is uncertain about the proper course of action. Support employees who report suspected violations of the Compliance Program. Recognize that retaliation against persons who report suspected violations is not permitted.
- Be alert to situations that could result in illegal or unethical conduct and encourage other employees to consult with their supervisors, their Facility Compliance Officer, the Corporate Ethics & Compliance Department or the Legal Department if it appears that they may be in danger of violating the law or the Compliance Program.
- Report suspected violations of the Compliance Program.

Banner Health Compliance Program

The following guidelines summarize Banner's basic standards and expectations for employee conduct. Many of the laws and policies discussed in this Compliance Handbook are complex and many of the concepts are developed in case-by-case determinations. In addition, the Compliance Handbook can deal only generally with some of the more important legal principles and compliance policies.

Their mention is not intended to minimize the importance of other applicable laws, regulations, professional standards or ethical principles, which may be covered in more detail under other compliance documents and policies. While the Compliance Handbook does not address every conceivable situation, it does summarize Banner Health's basic standards and expectations for employee conduct. Questions or concerns not specifically addressed in the Compliance Handbook may be covered in the other compliance documents or may be resolved by contacting a supervisor, Facility Compliance Officer or the Banner Health Ethics & Compliance Department.

Patient Rights and Relationships

Patient Care

Banner Health is committed to providing quality health-care to its patients. Assuring the quality of medical services is the single most important responsibility of each Banner employee. All Banner Health employees are expected to contribute to this effort and promote exemplary conduct that complies fully with laws and standards applicable to the industry. Misconduct of any kind, including fabrication or falsification of any medical services or documents, masking incorrect services, or any other action which might compromise the quality and integrity of the patient's care, will not be tolerated. Employees who engage in such misconduct will be subject to corrective action, up to and including termination of employment.

Emergency Treatment

Banner Health must meet or exceed the requirements of the Emergency Medical Treatment and Labor Act ("EMTALA") in providing emergency medical treatment to all patients, regardless of their race, religion, national origin, age, gender, physical condition, or ability to pay. In general, when an individual arrives alone or with another person at a Banner facility, and a request is made

on the individual's behalf for a medical examination or for treatment, Banner will provide for an appropriate medical screening examination within the capability of Banner's emergency department, to determine whether an emergency medical condition exists, or with respect to a pregnant woman having contractions, whether the woman is in labor. Banner Health must not delay the examination or treatment to inquire about the method of payment or the individual's insurance status.

If the patient has an emergency medical condition, Banner must provide either (a) further medical examination and treatment, including hospitalization, if necessary, to stabilize the medical condition to the extent possible within the capabilities Banner's staff and facilities, or (b) a transfer to another more appropriate or specialized facility. Banner Health may not transfer a patient with an emergency medical condition who has not been stabilized unless an appropriate physician signs a written certification that the benefits reasonably expected from the appropriate medical treatment at another facility outweigh the risk of transfer, or unless the patient, or a legally responsible person acting on the patient's behalf, requests the transfer in writing, after being informed of Banner's obligations under EMTALA and of the risks and benefits of the transfer.

To ensure that all patients have the opportunity to review their right to a medical screening examination and stabilization for an emergency medical condition, Banner Health must post in its emergency department(s), and other appropriate areas, appropriate signage notifying patients of their right to a medical screening examination and stabilization treatment.

In addition, Banner must develop and implement written policies and procedures to ensure that the EMTALA requirements are met, maintain a central log to include information on each individual who comes to a Banner facility requesting emergency medical treatment, and establish a documented system for providing on-call coverage for all services offered by Banner Health.

Freedom of Choice

Upon admission, Banner Health must provide patients with a written statement of their rights. This statement must include the rights of patients to make decisions regarding their medical care and it must conform to all applicable state and federal laws and regulations. Patients must be given the opportunity to be involved in all aspects of their care and Banner must obtain informed consent for treatment. As applicable, each patient or patient representative may be provided with a clear explanation of care including, but not limited to, diagnosis, treatment plan, right to refuse or accept care, care decision dilemmas, advance directive options, organ donation or procurement, and an explanation of the risks and benefits associated with available treatment options. Patients must be given the right to request transfers to other facilities. In such cases, the patient must be given an explanation of benefits, risks, and alternatives.

Confidential Information

There are two general types of confidential information: patient medical information and business information.

Information about a patient's medical condition is highly sensitive and its confidentiality must be maintained. No employee, physician or other health-care provider has the right to any patient information other than that necessary to perform his or her job. No employee should ever release or discuss patient-specific information with others unless it is necessary to provide appropriate medical care to the patient, it is with the patient's written consent or it is required by law. Finally, all employees are expected to maintain the confidentiality of "protected health information" (or "PHI") as that term is defined by the Standards for Privacy of Individually Identifiable Health Information (commonly known as the "HIPAA Privacy Regulations").

Confidential business information is any information about a present or planned business matter that has not been released publicly by Banner Health. Specifically, employees are not allowed to release without authorization information about:

- Pricing
- Financial data
- Marketing programs
- Research

Information such as this is the core of Banner's business. It is also a key component of just about every topic discussed in this Compliance Handbook. For example, releasing this information can violate laws regarding:

- Conflict of interest
- Antitrust
- Employment matters
- Finances
- Intellectual property
- Patient confidentiality

Remember this pledge to keep business and patient medical information confidential and to respect the privacy of those Banner serves.

Conflict of Interest

What is a Conflict of Interest?

A conflict of interest arises whenever an employee's interest or that of an employee's immediate family conflicts or appears to conflict with the interest of Banner Health. Everyone has a duty to avoid conflicts of interest or the appearance of conflicts of interest. The following discussion is not intended to intrude upon an employee's privacy but to help employees avoid conflicts of interest. If an employee is faced with a personal transaction, decision or situation which they think may create a conflict of interest, they must report it promptly to their supervisor, their Facility Compliance Officer, the Ethics & Compliance Department or the Audit Services Department.

In many situations, if there is no illegal or unethical conduct involved, Banner can consent to the proposed activity even though a conflict of interest may exist.

Banner's Compliance Handbook or the Conflict of Interest policy cannot describe all of the situations that may give rise to conflict of interest circumstances, nor can it take the place of a personal commitment to do what is right.

The following is a list of frequently encountered conflicts of interest.

Agents and Consultants: Individuals who provide services to Banner as agents or consultants are required to observe the same standards of conduct as employees of Banner Health.

Business Opportunities: We are prohibited from taking personal financial advantage of a business opportunity as a result of our association with Banner without first obtaining approval. Written approval must be obtained from the Banner Audit Services Department. Examples of business opportunities include real estate deals, patents and purchasing options.

Competitors and Suppliers: Employees may not invest in any company that is a supplier or competitor of Banner without first disclosing this in writing to the Audit Services Department. Ownership of less than 5 percent of a business's publicly traded securities is not a conflict of interest. Key employees or members of their immediate families may not work for, provide service to or serve as officers or directors of a competitor or supplier of Banner without notification. This notification must be provided in writing to the Audit Services Department. "Key employees" are department heads and above.

Diversion of Business: We are expected to refrain from any activity that may shift business from Banner Health to ourselves or to other non-Banner Health entities.

Confidential Information: Sharing information between and among employees is encouraged where it supports our mission of improving health. The use of confidential, non-public information for personal advantage is prohibited. In addition, the release of confidential information is prohibited unless authorized. Examples of authorized releases include press releases, advertisements or management announcements.

Outside Employment: Employment with non-Banner Health companies must not interfere or conflict with the performance of our duties at Banner Health.

Loans: We and our immediate families may not loan to or borrow from suppliers or customers. Dealings with banks and other financial companies which arise in the normal course of business are allowed.

Property of Banner Health: We may not use or permit others to use Banner Health property or employees on duty for personal benefit or the gain of others. Please refer to the following policies located on the Ethics & Compliance web page on Banner's intranet:

- Business Courtesies, Meals and Entertainment Policy
- Business Courtesies to Potential Referral Sources Policy
- Business or Personal Gifts from Outside Business Associates
- Sponsored Training and Education Policy
- Travel Expense Reimbursement by Outside Persons or Entities Policy

Gifts and Entertainment: Employees should not solicit personal gifts, services or entertainment of any kind from any patient, customer or company doing or seeking to do business with Banner Health. Employees and members of their immediate family may accept non-monetary gifts or services from any company doing or seeking to do business with Banner as long as it is clear that no attempt is being made to influence any business decision.

If employees are offered and accept gifts or services, they should report this if they arise in the normal course of a business relationship. Examples of "reasonable and customary" entertainment include restaurant meals, tickets to sporting or cultural events or other outings. You should obtain written approval from your supervisor prior to accepting any offer of entertainment which is not "reasonable and customary" or does not arise in the normal course of a business relationship.

It is helpful to divide this issue into two general categories: (a) personal gifts and gratuities (money, merchandise, products, use of products, facilities or equipment, etc.); and (b) personal entertainment

(meals, sporting or cultural events, etc.). Regardless of category, the Ethics & Compliance Department generally recommends that the employee first discuss the matter with his or her supervisor and obtain the supervisor's permission. Below are some guidelines that can be used in considering these issues.

Personal Gifts and Gratuities:

- Employees should not solicit personal gifts from patients, customers, companies doing business with Banner Health, or companies seeking to do business with Banner.
- Employees are discouraged from accepting gifts in general.
- Cash and cash equivalents may never be accepted. Cash and cash equivalents must either be returned to the gifting person or entity or, in the rare circumstances where this is not possible, must be surrendered to a Banner affiliated charitable foundation for its unrestricted use.
- Employees may accept from outside entities or persons a non-monetary gift of nominal value which is a token of respect or friendship and is consistent with the following guidelines:
 - Nominal value means \$50 or less for any single gift, i.e. fruit basket, bottle of wine, etc.
 - All gifts accepted from a single person or entity during a rolling three-month period may not exceed \$50.
 - Employees may accept unsolicited non-monetary gifts if it is clear that the acceptance does not raise an obligation on the part of the recipient. In any event, the accepting of any gifts must follow Banner's Business Gift policy.

Personal Entertainment:

- Employees should not solicit personal entertainment from patients, customers, companies doing business with Banner or companies seeking to do business with Banner.
- Employees may accept unsolicited offers of reasonable and customary entertainment if it is infrequent, it is in the ordinary course of the business relationship and the setting is reasonable, appropriate and fitting

Conflict Disclosure Statement

On an annual basis, a Conflict of Interest Disclosure Survey is completed by all Board members, members of local Boards of owned facilities, officers of Banner Health, administrators, employed physicians and other employees and individuals designated by their supervisors or by the Director of Audit Services. They are required to submit disclosures to the Director of Audit Services annually which affirm that the individual completing the survey and disclosure:

- Has received a copy of the conflict of interest policy,
- Has read and understands the policy,
- Has agreed to comply with the policy,
- Understands that Banner Health is a charitable organization and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more its tax exempt purposes, and
- Has responded fully, accurately and completely to all questions in the disclosure form.

New disclosures or disclosures covering changed circumstances related to matters previously disclosed must be disclosed in writing to the Director of Audit Services, when the officer, director or employee becomes aware of the new or changed circumstances. The Director of Audit Services reports all such disclosures to the Audit Committee of the Board and the President of Banner Health.

Antitrust Matters

What are Antitrust Laws?

Antitrust laws forbid companies from doing business in a way that gives them too much control in the marketplace. The purpose of these laws is to preserve competition. These laws may affect your dealings with patients, doctors, payers, suppliers and competitors of Banner Health. For purposes of the antitrust laws, members of Banner are not competitors of one another. Hospitals and health-care providers not controlled by Banner should be considered our competitors.

How are Antitrust Laws Violated?

The antitrust laws are violated if competitors agree to:

- Fix prices or pricing methods.
- Allocate patients, payer contracts or regions.
- Boycott or refuse to do business with a payer, physician, provider or other party. Such refusals may include the denial or canceling of medical staff memberships or privileges.

Antitrust violations can occur even without a written or oral agreement. It is possible to conclude that a violation of the antitrust laws has occurred if two competitors have had an opportunity to consult with each other and appear to be cooperating to control the marketplace. For this reason we should avoid discussions with our competitors concerning:

- Prices or payer rates.
- Our desire to deal with a particular payer or group of payers, or patient or group of patients.
- The granting of membership, privileges or managed care participation status any physician, health-care provider or group of providers.

Employment Matters

How are Employee Rights Protected?

Employees' rights are best protected by open communication and a spirit of cooperation. We are committed to equal employment opportunity in the workplace. We seek a working environment free of prejudice or harassment on the grounds of race, color, religion, sex, sexual orientation, age, disability, national origin or any other legally prohibited factor. We are expected to abide by all federal, state and local laws dealing with employment matters.

Health, Safety and the Environment

As employees we are expected to:

- Learn the procedures for handling and disposal of any hazardous materials we use in our jobs.
- Know the safety procedures that apply to our job.
- Share with our supervisor ideas for improving safety and reducing waste.
- Use our best efforts to ensure that our actions are carried out in a safe and healthy manner.

Our commitment to health, safety and environmental protection can be seen in our efforts to reduce the generation of waste. Waste should be recycled or reused whenever possible. Waste that cannot be recycled or reused should be discarded in a safe manner.

Financial Matters

Our Duties with Regard to Financial Matters

We are required to maintain the financial records of Banner Health in an accurate and complete manner. Accounting controls must be sufficient to provide reasonable assurance that:

- Financial contracts are carried out with management's approval.
- All transactions are recorded to help us prepare our financial statements and account for assets.
- Access to assets is permitted only with management's approval.
- Recorded assets are periodically compared with existing assets. Any differences should be reported to management.

The financial matters of Banner Health, its employees, physicians and patients are very private. You should not reveal these matters to outside parties.

Government Funds and Contracts

Our Duties with Regard to Government-Funded Programs

We receive research grants and monies from government-funded programs such as the National Institute's of Health. Contracts with the government require special care because of strict legal requirements and complex language. Failure to observe government rules and regulations can result in the loss of funds or grants and civil and criminal penalties. For example, it is a federal crime to make a false statement to a federal official.

If we work with government funds in an area like Medicare or Medicaid or with a federally funded research grant, we must know the rules related to that work. Ignorance is not an excuse. Contact your supervisor or consult the Ethics & Compliance Department if you have any questions regarding these rules.

Occasionally, payments from research grants and other government contracts are based on costs. Only costs allowed by a contract may be billed to the government. Costs should be recorded in an accurate and consistent manner. Because salaries constitute a large portion of the costs associated with a research grant project, researchers and their staff must be careful to accurately report the percentage of time spent on government funded projects. If we are responsible for charging costs to a government contract or grant, we are expected to do so in a reasonable and honest manner.

Intellectual Property

What is Intellectual Property?

Intellectual property includes patents, trademarks, service marks, trade secrets, copyrights, proprietary information and inventions or techniques. Intellectual property is protected by federal and state laws. Violations of the intellectual property laws may result in personal civil damages or criminal charges. In addition, the entire Banner Health organization may be held responsible for the actions of individual employees who break intellectual property laws.

What about Inventions?

Inventions or techniques created by employees of Banner Health during the course of their employment are the property of Banner, unless there is a written agreement with Banner stating differently. If we use Banner Health patents, techniques, publications and trade secrets in our work, be very careful not to disclose such information to others. The use of this information for your own purposes is prohibited.

What is Intellectual Property?

During the course of our employment, we may have access to intellectual property owned by other businesses. This information is private and should not be disclosed to others. Licensed computer software is a good example of intellectual property owned by another business. Copying computer software or the materials that come with it violates copyright laws and Banner policy. The use of illegal copies of software on company hardware is prohibited.

The following activities also may violate the intellectual property laws:

- Installing software programs on more than one computer when it was sold for only one computer. Find out how many computers can use a multiple unit software package before ordering or installing software.
- Copying (by machine or hand) an entire issue of a journal, magazine or newsletter. Unless you obtain permission from the publisher to make such copies, the original should be circulated within a group or several subscriptions purchased.
- Copying (by machine or hand) articles from journals or magazines against the wishes of the publisher.

Medicare and Medicaid Fraud and Abuse

What do we Need to Know Regarding Medicare and Medicaid Fraud and Abuse?

Entities that receive monies for services provided under Medicare and Medicaid are subject to several laws and regulations designed to prevent fraud. These laws were created to ensure that the federal funds that finance Medicare and Medicaid are used only for those purposes. Failure to obey these laws can result in fines, jail or exclusion from Medicare and Medicaid programs. Some of the more important laws relating to fraud and abuse are discussed below:

Billing and Claims

Honesty and accuracy in billing and in the making of claims for Medicare or Medicaid payment is vital. It is a federal felony to willfully make a false statement in connection with a claim for payment or an application for certification under Medicare and Medicaid.

The Anti-Kickback Statute

The anti-kickback statute is a federal law prohibiting persons from willfully offering, paying, seeking or receiving anything of value to bring about a referral for medical services or goods payable under Medicare or Medicaid. Failure to obey this law can result in fines, jail or exclusion from the Medicare and Medicaid programs. This law prohibits kickbacks and bribes. It also affects the way health-care entities carry out a broad range of ordinary business deals.

The following activities are illegal under the anti-kickback statute:

- Routine waivers of co-insurance or deductibles for reasons other than real financial hardship. Exceptions may exist.
- Offer or acceptance of payment other than at fair market value for healthcare services as a way of getting more business.
- Acceptance of prizes, gifts, cash payments, coupons or bonuses offered to physicians or purchasers for pushing certain products.
- Financial incentives given to physicians that are based on number of referrals or levels of billing.

The following activities must be carefully monitored to assure compliance with the anti-kickback statute:

- Space and equipment leasing
- Discounts on goods and services
- Management and personal services contracts
- Physician practice purchases
- Physician recruitment and retention
- Employment relationships
- Managed care initiatives
- In addition to the federal anti-kickback statute, there may be state anti-kickback laws that apply.

Ban on Self-Referrals

Generally, a physician who receives payment directly or indirectly from, or has an investment interest in, a health-care business should not refer patients to that business for services paid by Medicare or Medicaid. There are certain exceptions. In addition, there may be state self-referral laws that apply. Therefore, any potential relationship must be reviewed and approved by Banner's Legal Department. Claims should not be submitted for services performed as a result of improper referrals.

Federal and State False Claims Acts

The federal False Claim Act ("FCA") was originally enacted by President Lincoln in 1863 to combat contractor fraud against the Union Army during the Civil War. It imposes civil liability on any person or entity that knowingly submits, or causes to be submitted, a false or fraudulent claim for payment to the U.S. government. It also penalizes anyone who knowingly uses, or causes to be used, a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the U.S. government. Conspiring with others to commit these acts may also constitute a violation of the FCA. The FCA covers fraud involving any federally funded contract or program such as Medicaid and Medicare. The term "knowingly" is defined to mean that a person:

- has actual knowledge of the falsity of the information,
- acts in deliberate ignorance of the truth or falsity of the information, or
- acts in reckless disregard of the truth or falsity of the information.

For purposes of the FCA, a "claim" includes any request or demand for money that is submitted to the U.S. government or its contractors (Fiscal Intermediaries or Carriers). Health care providers who are convicted of violating the FCA can be subject to significant civil monetary penalties for each false claim submitted. In addition, providers can also be required to pay three times the amount of damages sustained by the U.S. government. If a provider is convicted of a FCA violation, the Office of the Inspector General may seek to exclude the provider from participating in federal health care programs.

The FCA includes a whistleblower or "qui tam" provision. This provision allows any person, called a "relator," with actual knowledge of false claims activity to file a lawsuit on behalf of the U.S. government. To qualify as a whistleblower, an individual must meet certain conditions.

First, they must be the "original source" of the information reported to the federal government. If the matter is already the subject of an investigation, or if the health care provider has already disclosed the problem to the government, the whistleblower may be barred from recovery.

The whistleblower must also file the lawsuit in a federal court. The suit is kept "under seal," meaning that it is kept confidential while the government reviews the case and decides whether or not to join in the case. If the government decides to join ("intervene"), the prosecution is directed by the Department of Justice. If the government decides not to intervene, the whistleblower can continue with the lawsuit on his or her own.

If the lawsuit is successful, the relator may receive an award ranging from 15 to 30 percent of the amount recovered by the government. The whistleblower may also be entitled to reasonable expenses, including attorneys' fees and costs for bringing the lawsuit.

Under the FCA, if an employee initiates a qui tam lawsuit and is then demoted, suspended, threatened, harassed or in any other manner discriminated against because he or she filed the lawsuit, he or she may be entitled to double back pay, interest on the back pay, plus special damages including litigation costs and reasonable attorneys' fees.

The Program Fraud Civil Remedies Act of 1986 ("PFCRA") provides administrative remedies against any person who makes, or causes to be made, a false claim or written statement to various federal agencies, including the Department of Health and Human Services ("HHS"). The PFCRA generally applies to lower dollar fraud, usually bills or claims under \$150,000. Under the PFCRA, anyone who submits or causes to be submitted a claim that he or she knows or should know is false, fictitious, or fraudulent can be forced to pay significant civil monetary penalties for each false claim and up to twice the amount claimed in lieu of damages.

States may also have their own "false claims acts." The Deficit Reduction Act of 2005 ("DRA") contains specific provisions aimed at reducing Medicaid fraud and abuse and applies to all healthcare providers receiving at least \$5 million in annual Medicaid payments. The DRA also encourage States to enact legislation that is comparable to the FCA to have consistent enforcement throughout the country. Under the DRA, States may keep an additional 10% of any recoveries obtained if they have a State law that:

- Establishes liability for the same type of false claims prohibited under the FCA;
- Contains incentives that are at least equal to the federal whistleblower incentives;
- Provides for qui tam lawsuits to be filed under seal; and
- Provides for civil penalties at least as high as the federal penalties.

For example, Colorado's Medicaid False Claims Act, Colo. Rev. Stat. §§ 25.5-4-303.5 through 25.5-4-310, contains the provisions required to qualify for a financial incentive.

Regardless of whether they qualify for the financial incentive, all States in which Banner Health operates have laws similar to the FCA as well as laws that prohibit fraudulent or deceptive behavior. Arizona, for example, has laws that forbid activities such as (a) theft, (b) forgery, (c) fraudulent schemes, artifices, and practices, and (d) concealing the same, as referenced in Ariz. Rev. Stat. §§ 13-1802, 13-2002, 13-2310, 13-2311. Arizona also specifically requires providers to report fraud and abuse. Ariz. Rev. Stat. §§ 36-2918, 36-2918.01.

Physician Recruitment and Retention

Entities that operate on a not-for-profit basis are subject to additional rules relating to the recruitment and retention of physicians. For example, these rules prohibit private inurement. Private inurement occurs when a not-for-profit business pays an individual or group of individuals more than the market price for services provided to the business. In some cases, the rules governing recruitment and retention also may require that the community benefit from the decision to hire a physician or buy a physician's practice. Keeping a written record of community benefit is an important part of all physician recruitment activities.

What if we have Additional Questions?

The anti-kickback statute and the self-referral ban are subject to numerous exceptions. These exceptions, as well as the proper application of these laws, can best be handled by the Legal Department or the Ethics & Compliance Department. If your job involves these issues and you have questions concerning them, please consult your supervisor, your Facility Compliance Officer, the Legal Department or the Ethics & Compliance Department.

Political Activity

As employees, we are encouraged to take part in community and political affairs and to vote in elections. If you participate in such activities, please remember to make it clear that you are acting as a private citizen and not as a representative of Banner Health.

Can Banner Make Campaign Contributions?

Generally, not-for-profit businesses like Banner may not make political contributions of any sort. This means that Banner property, funds or personnel cannot be used to help or support a political candidate. Indirect assistance, such as the supply of goods, services or equipment to candidates, political parties or committees is also banned. There are, however, a few exceptions, and advance approval is required for any such activities.

What are our Duties When Taking Part in Political Activities as Representatives of Banner Health?

As representatives of Banner Health we should:

- Comply with all laws relating to political activities.
- Conduct all relationships with public officials, candidates and government employees in an ethical and honest manner.
- Provide complete and correct information to government agencies.
- Avoid using our position with Banner to gain any benefit for ourselves or Banner.

Research Compliance

General Principles

Banner Health is a recipient of federal and private funds to conduct research and must comply with a myriad of federal regulations and rules imposed by private funding agencies and corporations. Banner Health must accurately account for all funds it receives for research purposes and must be in a position to assure the funding agency that the funds have been used only for the research purposes for which they were given. The receipt of federal funds from agencies like the National Institutes of Health, the National Cancer Institute and the National Institutes for Mental Health carry significant regulatory burdens.

There are special rules relating to the consent that must be obtained for research involving human subjects and rules relating to record keeping requirements and reports of adverse outcomes. In addition, there are special rules governing conflict of interest in the conduct of research. If these rules are not complied with, Banner Health may be subject to fines as well as exclusion from future receipt of federal or other research funds.

Some of the applicable regulations include:

- Public Health Service/National Science Foundation Policy on Conflict of Interest (42 CFR Part 50, 45 CFR Part 94)
- Office of Research Integrity Policies
- Office of Management and Budget Financial Policies (A-21, A-110, A-133, GASB)
- Bayh-Dole Act (use of intellectual property created as a result of federally funded research); Davis-Bacon Act reporting rules
- DHHS Regulations relating to the Protection of Human Subjects (45 CFT Part 46)
- Animal Welfare Act
- Nuclear Regulatory Commission regulations governing the use of Radioactive Materials

Questions concerning the applicability of and compliance with any of these focused regulations should be directed to the Banner Health Research Institute or Banner Health Ethics and Compliance Department.

Medical Research

Any Banner Health facility or colleague who becomes involved in clinical research activities must be aware of legal issues that can arise out of clinical research that is conducted. Three significant issues include compliance with Institutional Review Board (“IRB”) requirements for human subject research, billing for research-related activities, and guarding against violations of the anti-kickback law and conflicts of interest in connection with research grant funding.

Clinical Research must be conducted under the supervision of an IRB. The Food and Drug Administration and the Department of Health and Human Services have requirements that apply to an IRB.

These regulations govern the composition of IRB membership, the nature of the review that an IRB must conduct, and other procedures relating to the IRB. In connection with each human research project, researchers must submit details of their proposed research to the IRB and the IRB must review the appropriateness of the human protection safeguards as well as the informed consent process for the research in which the subjects participate.

In conducting research, it is important to (a) have informed consent documents that adequately inform patients of the potential risks of the research, (b) have sufficient follow-up to ensure that patients have not been harmed by the research, (c) strictly adhere to organizational and procedural formalities, such as voting quorum requirements, (d) ensure that the IRB members are diverse in their interests and perspectives, (e) have adequate record-keeping of IRB meetings, and (f) identify and avoid conflicts of interest held by members of the IRB who both approve research and solicit funding for research. These policies and procedures can best be implemented by educating the IRB members as to the applicable regulatory standards, basic scientific issues, and the complexity of ethical issues involved in human subjects research.

Appropriate and accurate billing of Medicare or Medicaid, in the research context and otherwise, is extremely important in order to comply with applicable law. Directly billing Medicare or Medicaid for the costs of items or services that are otherwise reimbursable (or free) to Banner Health through federal or private grant funds constitutes inappropriate billing. Submitting bills to Medicare or Medicaid for those items or services already paid for by other sources is impermissible. Banner Health must have mechanisms in place to ensure that funded research services are accurately recorded in its accounting system and that Medicare, Medicaid or other payers are not billed for services in violation of the above- referenced rule. Moreover, Banner must identify those services, such as laboratory tests, procedures and physician services that will be provided to patients solely because the patients are enrolled in the research study.

The facility must ensure that the charges for these research-only services are not billed to third-party payers or to patients. Those employees who handle and manage research matters are responsible for ensuring that these requirements are met and, if necessary, that Banner Health’s Research Institute, Banner’s Legal Department and Banner’s Ethics & Compliance Department are fully advised of the research activities.

Compensation and funding from pharmaceutical companies (or other sponsors that provide or supply health-care services or products) to physicians or a hospital for their participation in clinical research, if intended to induce the physicians or Banner to purchase drugs or services that will be paid for by Medicare or Medicaid, is prohibited by the Medicare/Medicaid anti-kickback laws. A violation of the law would subject the physicians and Banner Health to possible civil and criminal penalties.

To best protect against any allegations of improper research funding, it is important to ensure that the compensation be consistent with fair market value for the services furnished by the researching persons or entity. Payments that are well in excess of what one usually earns for the type of work or the number of hours involved must be carefully reviewed. Because there is not clear test for what constitutes “fair market value,” it is important that such matters be reviewed by Banner’s Legal Department.

A potential conflict of interest is another important consideration when research funding is received from pharmaceutical companies or other sponsors that provide or supply health-care services or products. Funding for research activities should only be accepted after the researcher has disclosed all potential conflicts of interest. Funds may not be accepted by Banner when the researcher has a financial interest in the outcome of the research. For more detailed information, please refer to the Conflict of Interest policy.

Other Laws and Banner Health Policies and Procedures

This Compliance Handbook covers many areas, but your job may involve specific legal rules not explained here. For example, if you work in a pharmacy or are responsible for the collection of receivables, additional laws may apply to your duties. Questions or concerns not specifically addressed in the Compliance Handbook may be resolved by examining the other compliance documents or by contacting your supervisor, your Facility Compliance Officer or the Ethics & Compliance Department.

The guidelines set forth in this Compliance Handbook are intended to reaffirm Banner Health’s long- standing commitment to compliance. They are not intended to replace other Banner policies and procedures. All of us must comply with the applicable Banner facility and departmental policies and procedures, as well as the guidelines in the Compliance Handbook.

Conclusion

You can help prevent the mistakes that lead to compliance problems. Prevention begins with education. Each employee is expected to know and understand Banner Health’s compliance policies and the basic laws and regulations that affect his or her job. Knowledge is the most powerful weapon you can use to prevent compliance mistakes from happening. If you are not knowledgeable about Banner Health’s compliance policies and the basic laws and regulations that affect your job, you must educate yourself.

Start by reading the Compliance Handbook and any other compliance documents that contain the policies that most directly impact your job. Study those policies and talk to your supervisor if you do not understand how they apply to your job. If your supervisor cannot resolve your problem, follow the “Four Step Communication Process” and keep asking your questions until you get an answer that makes sense to you.

With the assistance of every employee, Banner Health will fulfill its commitment to provide medical services of the highest quality to its patients in full compliance with all applicable laws and regulations.

Corporate Resource Directory

Banner Health Ethics & Compliance Department

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-8052

Fax: 602-747-3728

Banner Health HIPAA Compliance Officer

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-4822

Fax: 602-747-4541

Banner Health Audit Services Department

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-4865

Fax: 602-747-4819

Banner Health Risk Management

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-4787

Fax: 602-747-4541

Banner Health Legal Services

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-4132

Fax: 602-747-4528

Banner Health Human Resources

2901 N. Central Ave., #160

Phoenix, AZ 85012

Phone: 602-747-4602

Fax: 602-747-4689

ComplyLine

888-747-7989

Banner Health Ethics & Compliance Web Page

<http://intranet.bannerhealth.com/BHSystem/Departments/Ethics+and+Compliance+ Home+Page/>



Banner's ComplyLine (888) 747-7989

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