

FINDER'S FEES

UNIVERSITY OF KENTUCKY MEDICAL INSTITUTIONAL REVIEW BOARD POLICY

Both the University of Kentucky legal counsel and the Corporate Compliance Office have advised the Medical Institutional Review Board that finder's fees should not be allowed. Thus, based upon both legal and ethical concerns, the UK Medical Institutional Review Board (IRB) will not approve finder's fees in research studies. Finder's fees are any payments to physicians or other health care professionals for referring individuals to research studies. The following contributed to the IRB's decision on this issue.

- The University's legal counsel and the Corporate Compliance Manual cite the strong possibility of conflict with or violation of state and federal laws, the obligation to make disclosures to the clinical subject, and the University's own Business Procedures. Contact these offices to discuss the legal implications of finder's fees further.
- The anti-kickback provisions of the Physician Self Referral Law and Stark II final regulations also prohibit finder's fees. Specifically, the regulations prohibit health care providers from "knowingly and willfully soliciting or receiving, or offering or paying, any remuneration (including any kickback, bribe, forgiveness of debt or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in return for, or as an inducement to [...] referring an individual to a provider for the furnishing of, or arranging for the furnishing of, any item or service for which payment may be made under a federal health care benefit program." (See the University of Kentucky Corporate Compliance Manual, Chapter 3, Section E, "Kickbacks/Illegal Remuneration," available online at <http://www.mc.uky.edu/compliance/manual.htm>.)
- The policy of the American Medical Association is that offering or accepting payment for referring patients to research studies and not for the conduct of any medical service, i.e., finder's fees, is unethical. (See *AMA Policy E-6.03* "Fee Splitting: Referrals to Health Care Facilities." See also Karine Morin et al., "Managing Conflicts of Interest in the Conduct of Clinical Trials," *JAMA* 287 (2002): 78-84.)