



<b>DOCUMENT TITLE:</b> Antitrust Compliance	<b>SYSTEM POLICY AND PROCEDURE MANUAL</b>
<b>POLICY #:</b> 800.65	<b>CATEGORY:</b> Compliance & Ethics
<b>System Approval Date:</b> 07/22/2025❖	<b>Origination Date:</b> 10/19/2017
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<b>Prepared by:</b> Office of Corporate Compliance	<b>Notations:</b> N/A

## GENERAL STATEMENT of PURPOSE

The purpose of this document is to provide guidance on the antitrust compliance obligations of Northwell Health under Federal and State antitrust laws.

## POLICY

It is Northwell Health's policy to compete fairly and to comply fully with applicable antitrust laws. Northwell Health requires all directors, officers, and employees to conduct Northwell Health's business in full compliance with the antitrust laws. No director, officer, or employee should assume that Northwell Health's interest ever requires otherwise.

Additionally, it is Northwell Health's policy to unilaterally and independently determine the terms upon which it does business, including its rates, discounts and reimbursement methodologies for services, products and related items, as well as its salaries and compensation for personnel. In setting these terms, Northwell Health may consider all relevant factors, including costs, market conditions and prevailing competitive rates to the extent these can be fairly determined in the marketplace. This policy prohibits any agreement or understanding with any competitor regarding the terms on which Northwell Health will conduct its business.

## SCOPE

This policy applies to all Northwell Health employees, as well as medical staff, volunteers, students, trainees, physician office staff, contractors, trustees and other persons performing work for or at Northwell Health; faculty and students of the Donald and Barbara Zucker School of Medicine at Hofstra/Northwell or the Hofstra Northwell School of Nursing and Physician Assistant Studies conducting research on behalf of the Zucker School of Medicine on or at any Northwell Health facility; and any other Affected Individual.

## DEFINITIONS

**Affected Individuals:** “Affected Individuals” is defined as all persons who are affected by Northwell Health’s risk areas including, but not limited to, Northwell Health’s employees, the chief executive and other senior administrators, managers, medical staff members, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.

## PROCEDURE

The antitrust laws are designed to preserve market-based competition, including competition in markets for healthcare products and services. These laws are founded on the belief that the public interest is best served by vigorous competition. They prohibit certain agreements among competitors, such as those which improperly set prices or price terms (i.e., including reimbursement rates or methodologies, as well as salaries and compensation), allocate markets, or boycott other competitors. These prohibitions apply to agreements even when there is no formal, written contract. Any understanding reached with a competitor, directly or indirectly, including, for example, “gentlemen’s agreements” and “wink, wink, nod, nod” understandings, may provide the basis for an antitrust violation.

The antitrust laws also prohibit other arrangements and conduct that unreasonably restrain competition, such as excluding certain parties from doing business in a particular market, when the effect is to suppress competition, leading to increased prices or reductions in services or output.

Violations of the antitrust laws can lead to civil and criminal monetary fines, civil liability for treble damages, and/or injunctions. Additionally, antitrust violations may subject individuals to personal liability, conduct orders and/or monetary fines.

The Office of Legal Affairs is an important resource for Northwell Health personnel. It is essential that Northwell Health personnel seek legal advice before taking any action that might lead to antitrust problems. Seeking advice from the Office of Legal Affairs at the earliest possible stage may enable Northwell Health personnel to address antitrust concerns before an antitrust violation arises.

### **I. Policies and Procedures Relating to Business Activities**

#### **A. Discussions With or Involving Competitors**

To avoid the possibility of misunderstanding or misinterpretation, this policy prohibits any consultation or discussion with competitors relating to:

1. Prices or terms on which Northwell Health or any competitor does business or intends to do business;
2. Northwell Health’s employee compensation and benefits including current or future individual salaries, wages or wage levels or ranges;
3. Allocations, divisions or rationalization of any services or geographic areas, including Northwell Health’s intentions with respect to its current or future service offerings, including any potential expansion or down-sizing of services; and

4. Arrangements or activities that are intended to, or would have the effect of, excluding another competitor or potential competitor from doing business in a relevant market.

**B. Joint Ventures, Acquisitions and Affiliations**

Joint ventures, acquisitions and other affiliations may involve exchanges of competitively sensitive information or other coordination for the legitimate business purposes of the joint venture, acquisition or other affiliation and must be individually reviewed for antitrust compliance.

**C. Trade Associations and Surveys**

Northwell Health is involved in a number of trade and professional associations. These organizations promote quality patient care by allowing Northwell Health representatives to learn new skills, develop policies, and where appropriate, speak with one voice on public issues. However, it is not always appropriate to share Northwell Health's business information with trade associations and their members. Sharing information is appropriate if it is used to better inform consumers or to promote efficiency and competition.

Northwell Health representatives may participate in surveys of price, cost, and wage information if the survey is (i) conducted by a third party, (ii) involves at least five (5) comparably sized providers, and (iii) participants' data will be aggregated prior to disclosure. Additionally, any price, cost, or wage information released by Northwell Health must be at least three (3) months old. If asked to provide a trade association with information about Northwell Health charges, costs, salaries, or other competitively sensitive information, Northwell Health employees must consult the Office of Legal Affairs.

**D. Boycotts and Refusals to Deal**

Northwell Health policy prohibits any agreement with competitors to boycott or refuse to deal with a particular person or persons, such as a vendor, payor, or other provider. Additionally, any agreement with a vendor, payor, or other third party that is intended to or is likely to have the effect of boycotting or excluding a third party from a relevant market, including exclusive agreements, should be reviewed in advance by the Office of Legal Affairs.

**E. Market Allocations**

Northwell Health policy prohibits any agreement with competitors to allocate markets, meaning any agreement that one party will provide services or establish a location in one geographic area while the other party will provide services or establish a location in a distinct geographic area, or that one party will provide one type of services or products while the other party will provide another type of services or products. Similarly, a prohibited market allocation agreement would also include any understanding not to market or advertise in each other's service areas, or to each other's patients.

**F. Credentialing, Peer Review and Physician Discipline**

Northwell Health engages in credentialing and peer review activities for the purpose of improving patient care and preventing incidents of medical malpractice. Because of the special training and experience of physicians, their skills may best be evaluated by other physicians, including physicians who may be competitors. As a result, credentialing, peer review and physician discipline at Northwell Health are conducted in accordance with criteria established by clinical leadership, subject to the approval of properly constituted quality assurance and medical peer review committees and processes. Questions about peer review activities should be directed to the Office of Legal Affairs. Corporate Risk Management shall be notified when there is a disciplinary action taken against a physician, loss of privileges, and matters related to credentialing.

**G. Non-Competition Provisions - Employment and Sale of Business**

Northwell Health may enter into a covenant not to compete or a restrictive covenant in connection with an employment contract or a contract for the sale of a business where (i) there is a legitimate business purpose for the covenant, and (ii) the covenant is reasonably limited in scope (e.g., duration of time, size of geographic area or territory, and services or products). For example, when purchasing a business, a restrictive covenant may be necessary to protect the purchaser's investment in the business and its goodwill. Similarly, when an employee is in a position to obtain valuable personal contacts or trade secrets as a result of his or her employment, a restrictive covenant may be necessary to protect the employer from losing the value of those contacts or trade secrets in the event the employee becomes employed by, or otherwise affiliated with, a competitor. The appropriate geographic scope and duration of a restrictive covenant may vary from contract to contract. Questions about the appropriateness of a non-competition provision should be directed to the Office of Legal Affairs.

**H. No-Poach/No-Hire Provisions**

Except in certain limited circumstances, Northwell Health may not enter into so-called "no poach" or "non-solicitation" agreements or similar arrangements with any other employer(s) pursuant to which they agree not to (i) hire each other's employees, (ii) recruit certain employees, or (iii) compete on terms of compensation. Agreements of this nature can raise substantial antitrust exposure unless they are reasonably tailored to protect a legitimate interest under a documented business arrangement. To avoid unnecessary antitrust exposure, advance approval should be obtained from the Office of Legal Affairs prior to entering into such arrangements. The Department of Justice ("DOJ") may criminally prosecute individuals and companies that enter into per se unlawful wage-fixing and no-poach agreements, and the Federal Trade Commission ("FTC") may pursue civil enforcement actions. In guidance issued jointly by the DOJ and FTC, the agencies remind parties that "firms that compete to hire or retain employees are competitors in the employment marketplace, regardless of whether the firms make the same products or compete to provide the same services."

**I. Exclusivity and Restrictive Covenants in Contracts**

Agreements that include exclusivity provisions or which could have the effect of excluding other providers, payors or vendors from a relevant market should be reviewed by the Office of Legal Affairs. Similarly, payor agreements that include most favored nation, tying/bundling, or anti-steering provisions, or restrict the dissemination of price or cost data to insureds, should be reviewed by the Office of Legal Affairs.

**J. Transaction Planning: Mergers, Acquisitions, Joint Ventures and Affiliations**

Transactions that exceed a certain dollar threshold may require pre-merger notification of the FTC and the DOJ. Where pre-merger notification is required, the parties also must comply with statutory waiting periods which are designed to provide the enforcement agencies with time to review the transaction. A failure to comply with pre-merger notification obligations and the statutory waiting periods can result in penalties of up to over \$40,000 per day per separate violation.

The Office of Legal Affairs can assist you in determining whether a particular transaction requires pre-merger notification, facilitate the requisite reporting, and help to ensure compliance with the statutory waiting periods. Questions about any aspect of pre-merger notification should be directed to the Office of Legal Affairs.

**K. Unfair or Deceptive Practices**

In addition to the antitrust laws, Northwell Health is committed to complying with other Federal and State laws governing market competition. For example, Federal and State laws prohibit advertising and marketing materials that are false or misleading. Northwell Health employees responsible for preparing and distributing such materials should be familiar with these laws. Direct questions about specific materials should be directed to the Office of Legal Affairs before distribution.

**II. Situations In Which Reports Are Required**

All employees are expected to report suspected violations of this policy to the Northwell Health Office of Corporate Compliance. No employee may be retaliated against for making a report in good faith.

Employees also are encouraged to consult with the Office of Legal Affairs if they have any questions as to whether actual or proposed activities are prohibited by this policy.

**III. When to Report**

Employees must report suspected violations of this policy to the Office of Corporate Compliance. No employee may be retaliated against for making a report in good faith.

## REPORTING AND ENFORCEMENT

In discussing any issue with the Office of Legal Affairs, you must provide all the relevant facts. Legal advice is only as good as the information on which it is based. If the Office of Legal Affairs does not have all the necessary information, it will be more difficult to take the appropriate action to protect you and Northwell Health.

- All violations of this policy shall be reported to the appropriate manager/supervisor/director or to the Office of Corporate Compliance (516-465-8097) for appropriate resolution of the matter. The HelpLine is available 24 hours a day, seven days a week at (800) 894-3226 or online at [www.northwell.ethicspoint.com](http://www.northwell.ethicspoint.com), is accessible to all Affected Individuals and allows for questions regarding compliance issues to be asked and for compliance issues to be reported. Reports of potential fraud, waste and abuse and compliance issues also may be made directly to the Chief Corporate Compliance Officer or designee in person, in writing, via email, mobile device via a QR code, or by telephone. All reports received by the Office of Corporate Compliance are investigated and resolved to the fullest extent possible. The confidentiality of persons reporting compliance issues shall be maintained unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by Medicaid Fraud Control Unit U.S. Department of Health and Human Services (HHS) Office for Civil Rights, HHS Office of Inspector General, Office of Medicaid Inspector General or law enforcement, or disclosure is required during a legal proceeding, and such persons shall be protected under Northwell Health's policy for non-intimidation and non-retaliation. Violations of this policy will be subject to disciplinary action as outlined in the Human Resources Policy and Procedure Manual and *Northwell Health Policy #800.73 – Compliance Program Disciplinary Standards for Non-Employees*.



## REFERENCES to REGULATIONS and/or OTHER RELATED POLICIES

- Northwell Health Code of Ethical Conduct
- Northwell Health Policy #800.73 – Compliance Program Disciplinary Standards for Non-Employees
- Northwell Health Human Resources Policy and Procedure Manual, Part 5-3 – Workforce Conduct – Progressive Discipline

- Sherman Antitrust Act - 15 U.S.C. Sections 1-7
- Clayton Antitrust Act – 15 U.S.C. Section 12-27; 29 U.S.C. Sections 52-53
- Federal Trade Commission Act – 15 U.S.C. Sections 41-58
- DOJ/FTC Antitrust Guidance for Human Resources Professionals
- 18 NYCRR § 521 – Fraud, Waste and Abuse Prevention
- 18 NYCRR § 504.3 – Duties of the Provider

## CLINICAL REFERENCES/PROFESSIONAL SOCIETY GUIDELINES

N/A

## ATTACHMENTS

N/A

## FORMS

N/A

<b><u>CURRENT REVIEW/APPROVALS:</u></b>	
Service Line/Department Review	07/03/2025
Northwell Health Policy Committee	07/22/2025❖
System PICG/Clinical Operations Committee	07/22/2025❖

### Standardized Versioning History:

Review/Approvals: ‡ = Service Line/Department; \* =Northwell Health Policy Committee; \*\* = PICG/Clinical Operations Committee; ⌘ = Provisional; ❖ = Expedited

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