



29 British American Boulevard, 2nd Floor
Latham, NY 12110
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[Policy Number]: Contractual/Financial Arrangements with Physicians

Category: Corporate Compliance Effective Date: XXXXXXXX
Department: XXXXXXXXXXXXXXXXXXXXXXXX Last Revision Date(s): 6/26/2020

POLICY STATEMENT

To help meet the goals of [Chapter] and to provide the best services to its clients, [Chapter] may from time to time enter into financial arrangements with physicians. If a physician is also a source of referrals of clients to the [Chapter], certain laws may regulate the relationship. [Chapter] has established this Policy to ensure that any such contractual/financial arrangements are structured in light of relevant federal and state laws, fulfill the mission of [Chapter] and are in the best interests of [Chapter] and its consumers. This Policy addresses three categories of potential financial relationships with physicians who also act as referral sources: (i) employment agreements; (ii) personal services agreements; and (iii) equipment and space rental arrangements.

This Policy applies to all (i) employment agreements; (ii) personal services agreements; and (iii) equipment and space rental arrangements between [Chapter] and a physician or physician group if the physician is a source of referrals. If [Chapter] desires to enter into an arrangement with such a physician that is not specifically authorized by this Policy, prior written approval must be obtained from the Compliance Officer.

PROCEDURE

A. General Principles

1. [Chapter] shall inform and educate personnel who are involved with physician financial arrangements regarding this Policy through the Corporate Compliance Program mandatory training requirements.



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2. If an arrangement is initiated by [Chapter], the Compliance Officer must review the arrangement (and any corresponding written or verbal offers or arrangements) before the arrangement is discussed with a physician. All physician-initiated proposals for financial arrangements with [Chapter] must be presented to and approved by the Compliance Officer before any binding commitments are made. In no event shall any amounts be paid to any physician or physician group except pursuant to a signed written agreement that has been reviewed and approved in accordance with this Policy.
3. All arrangements must be in writing and must be presented to the Compliance Officer for review prior to execution. The Compliance Officer, at his or her discretion, may submit any such agreement to internal or external legal counsel for review. Under no circumstances are [Chapter]'s funds or resources to be paid or provided to any physician who is a referral source pursuant to an oral agreement or a written agreement that has not been reviewed by the Compliance Officer.
4. All arrangements must be undertaken without regard to the value or volume of physician referrals and must not include any intention to induce referrals.

B. Employment Agreements

1. [Chapter] may wish to employ physicians to furnish services to consumers. Prior to [Chapter] employing any physician, compliance with this Policy is required.



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2. All arrangements with physicians to serve as employees of [Chapter] must be for bona fide employment, must be approved by the Compliance Officer pursuant to Section A of this Policy, and must:
 - a. Be in writing;
 - b. Provide for compensation consistent with fair market value determined by the analysis completed pursuant to Section B.3. of this Policy;
 - c. Not base compensation upon the value or volume of referrals or any referral relationship between the parties; and
 - d. Be commercially reasonable even if no referrals were made to [Chapter].
3. [Insert Title] shall be responsible for conducting a determination of whether the compensation included in an employment agreement is consistent with the fair market value for the services being provided under the agreement. A written assessment of the determination that the compensation is consistent with fair market value, and any supporting documentation, should be kept on file by the Compliance Officer. Amounts may vary depending upon the particularities of the physician's education, expertise, and geographic location.
4. After review by the Compliance Officer, the employment agreement may be approved and executed by *[insert title]*.
5. *[Insert title]* shall be responsible for maintaining the fully executed copies of the employment agreements. A copy shall also be sent to the Compliance Officer.

C. Personal Service Agreements



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1. [Chapter] may wish to enter into contractual arrangements with physicians. Such arrangements could include contracts for services as a medical director or consultant. Such arrangements are referred to as “personal services agreements” or “independent contractor agreements,” and they require compliance with this Policy.
2. All personal services agreements with physicians must be approved by the Compliance Officer pursuant to Section A of this Policy and must meet the following requirements:
 - a. The agreement must be in writing and signed by the parties;
 - b. The agreement must specify with particularity the services to be provided and cover all the services provided by the physician to [Chapter];
 - c. If the agreement provides for services on a periodic, sporadic or part-time basis, rather than on a full-time basis for the term of the agreement, the agreement must specify exactly the schedule of such intervals, their precise length, and the exact charge for such intervals. The only exception to this requirement is for agreements for Medical Director services providing for compensation on an hourly basis; for these Medical Director agreements, time records must be kept, and the physician must submit invoices in order to receive payment for services rendered;
 - d. The agreement must have a term of at least one year, subject to Section C.5., below;
 - e. The agreement must provide the aggregate compensation paid to the physician over the term of the agreement, except in the case of per-hour compensation arrangements for Medical Director services described in Section C.2.c., above. Compensation must be set in advance and be



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- consistent with fair market value in an arms-length transaction as determined by the analysis completed pursuant to Section A of this Policy;
- f. Compensation must not be determined or modified in a manner that takes into account the volume or value of any referrals or other business generated between [Chapter] and the physician;
 - g. The services performed under the agreement must not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law; and
 - h. The aggregate services contracted for must not exceed those which are reasonably necessary to accomplish the commercially reasonable business purpose of the services.
3. *[Insert title]* shall be responsible for conducting a determination of whether the compensation included in a personal services agreement is consistent with the fair market value for the services being provided under the agreement. Amounts may vary depending upon the particularities of the physician's education, expertise, experience and geographic location. A written assessment of the determination that the compensation is consistent with fair market value, and any relevant supporting documentation, should be kept on file by the Compliance Officer. Fair market value shall be supported by an independent determination of fair market value or by reference to an industry-recognized benchmark.
4. After review by the Compliance Officer, the personal services agreement may be approved and executed by *[insert title]*.
6. If the term of the agreement is for less than one year or if the agreement is terminated with or without cause prior to the end of the first year of the



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agreement, then the parties may not enter into a similar agreement until the one-year term has passed.

7. *[Insert title]* shall be responsible for maintaining the fully executed copies of the personal services agreements. A copy shall also be sent to the Compliance Officer.

D. Equipment and Space Rental Arrangements.

1. [Chapter] has determined that it may wish to enter into lease agreements with certain physicians whereby these physicians lease either office space or equipment from [Chapter]. Such arrangements are referred to as “lease agreements” or “rental agreements,” and they require compliance with this Policy.
2. All lease agreements with referring physicians must be approved by the Compliance Officer pursuant to Section A of this Policy and must meet the following requirements:
 - a. The agreement must be in writing and signed by the parties;
 - b. The agreement must specify with particularity the equipment/space covered; if the lease is intended to provide the lessee with access to the equipment/space for periodic intervals of time, rather than on a full-time basis for the term of the lease, the lease must specify exactly the schedule of such intervals, their precise length, and the exact rent for such intervals;
 - c. The agreement must have a term of at least one year, subject to Section D.5., below;
 - d. The equipment/space must be used exclusively by the physician and, while in use by the physician, cannot be shared or used by [Chapter] or any person



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- or entity related to [Chapter];
- e. The agreement must provide for aggregate compensation paid over the term of the agreement, set in advance, and consistent with fair market value in an arms-length transaction as determined by the analysis completed pursuant to Section D.3. of this Policy;
 - f. Compensation must not be determined or modified in a manner that takes into account the volume or value of any referrals or other business generated between [Chapter] and the physician;
 - g. The lease must be commercially reasonable even if no referrals were made between [Chapter] and the physician;
 - h. The lease may not provide for services to be performed under the agreement that involve the counseling or promotion of a business arrangement or the activity that violates any state or federal law; and
 - i. The aggregate equipment/space leased may not exceed that which is reasonable and necessary for the legitimate business purposes of the lease and the lease must set out all of the equipment/space leased between the physician and [Chapter].
3. *[Insert title]* shall determine whether the payments made under the lease agreement are consistent with the fair market value for the office space or equipment being provided under the agreement. For purposes of determining the fair market value of space rentals, fair market value means the value of rental property for general commercial purposes, but shall not be adjusted to reflect the additional value that one party ([Chapter] or the physician) would attribute to the property as a result of its proximity or convenience to sources of referrals. For purposes of determining the fair market value of equipment, fair market value means the value of the equipment when obtained from a



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manufacturer or professional distributor, but shall not be adjusted to reflect the additional value one party ([Chapter] or the physician) would attribute to the equipment as of result of its proximity or convenience to sources of referrals. A written assessment of the determination that the compensation is consistent with fair market value should be kept on file by the Corporate Compliance Office.

4. After review by the Compliance Officer, the lease agreements may be approved and executed by *[insert title]*.
5. If the term is for less than one year or if the agreement is terminated with or without cause prior to the end of the first year of the agreement, then the parties may not enter into a similar agreement until the one-year term has passed.
6. *[Insert title]* shall be responsible for maintaining the fully executed copies of the lease agreements. A copy shall also be sent to the Compliance Officer.