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I. SCOPE:

This policy applies to (1) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates (each, an “Affiliate”); (2) any other entity or organization in which Tenet Healthcare Corporation or an Affiliate owns a direct or indirect equity interest of 50% or more; and (3) any hospital or healthcare facility in which Tenet Healthcare Corporation or an Affiliate either manages or controls the day-to-day operations of the facility (each, a “Tenet entity”) (collectively, “Tenet”).

II. PURPOSE:

To ensure compliance with the terms of the [Corporate Integrity Agreement](#) (CIA) dated September 27, 2006 between Tenet Healthcare Corporation and the Office of Inspector General (OIG) of the Department of Health and Human Services. Further, the purpose of this policy is to ensure, through the implementation of prudent and reasonable controls, that:

A. all physician employment arrangements¹ are undertaken only when a Tenet entity has a legitimate need for a physician² to provide the type and quantity of services³ contemplated by the employment arrangement to promote quality, cost-effective care or to fulfill other legitimate needs of the Tenet entity;

B. the remuneration⁴ paid pursuant to all physician employment arrangements is commercially reasonable and consistent with fair market value⁵ for the services furnished;

C. services furnished pursuant to a physician employment arrangement are appropriately documented by the physician;


¹ “Physician Employment Arrangement” means an arrangement in which the physician provides services to the Tenet entity where the physician is considered to be an employee of the Tenet entity under the common law rules that apply in determining the employer-employee relationship (as applied for purposes of Section 3121(d)(2) of the Internal Revenue Code of 1986).

² “Physician” means a duly licensed and authorized doctor of medicine or osteopathy, doctor of dental surgery or dental medicine, doctor of podiatric medicine, doctor of optometry, or chiropractor.

³ “Services” means professional medical, medico-administrative or consulting services furnished by a physician on behalf of a Tenet entity as an employee, consistent with this policy.

⁴ “Remuneration” means anything of value, including, but not limited to, cash, items or services.

⁵ “Fair market value” means the value in arm’s-length transactions, consistent with the compensation that would be included in a services agreement, as the result of bona fide bargaining between well-informed parties to the agreement who are not otherwise in a position to generate business for the other party at the time of the service agreement.

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D. all physician employment arrangements comply with applicable laws and regulations, including the federal Anti-Kickback law and the Stark law; and

E. under no circumstance will a physician employment arrangement involve a hospital paying remuneration to a physician, directly or indirectly, with the intent to induce the physician to refer patients to, or otherwise generate business for, any hospital.

III. POLICY:

A Tenet entity may not enter into a physician employment arrangement unless the Tenet entity has an objectively determined, legitimate need for the services contemplated by the physician employment arrangement.

IV. PROCEDURE:

A. Entity Implementation.

The Tenet entity shall ensure that this policy is adhered to by following all of the steps set forth in this policy.


1. Step 1 Identify the Need for the Services.

The Tenet entity shall obtain appropriate evidence indicating that a physician should be retained to furnish the services contemplated by the physician employment arrangement in order to promote quality, cost-effective care or fulfill other legitimate needs of the Tenet entity.

In the case of professional medical services, the Tenet entity shall identify why the physician should be engaged as an employee rather than an independent contractor and compensated by the Tenet entity as employer rather than having the physician bill payers or patients independently for the service.

2. Step 2 Project the Number of Hours Required (Part-Time Employment).

Part-time employment should typically be contracted for on an hourly basis (in certain circumstances, “half-day” or “shift”-type arrangements may be appropriate). A Tenet entity may not enter into a part-time physician employment arrangement on an hourly basis unless the Tenet entity has made an objective determination that the number of hours of services contemplated by the physician employment arrangement is reasonable and necessary to accomplish the Tenet entity’s legitimate needs for the services. The Tenet entity must prepare a written

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projection of the number of hours reasonably necessary for the physician employee to discharge the services based on:


- a. any benchmarks referenced by legal authorities, government organizations, provider accreditation bodies, medical education program accreditation bodies, independent third party consultants, third party payers, or the Tenet entity’s medical staff or governing board;
- b. data from time logs; and/or
- c. other appropriate factors, such as a detailed description of the scope of the services.

3. Step 3 Demonstrate the Professional Qualifications of the Physician.

A Tenet entity may not enter into a physician employment arrangement unless the Tenet entity has objectively determined that the physician is qualified and capable of performing the services. To demonstrate the physician’s qualifications, the Tenet entity must:

- a. verify that the physician is capable of furnishing the services contemplated under the employment arrangement (i.e., the physician must confirm that he/she does not have other preexisting obligations which would limit or restrict the physician from fully performing the services);
- b. obtain a copy of the physician’s curriculum vitae;
- c. verify, if not evident from existing information, that the physician is currently licensed in the state;
- d. verify that the physician is qualified to provide the services (e.g., that the physician possesses relevant training and/or experience in the area); and
- e. verify, through a search of the U.S. General Services Administration’s (“GSA”) Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs and of the OIG’s List of Excluded Individuals/Entities, that the physician has no exclusions, suspensions or debarments from participation in any federal health care program.⁶

⁶ “Federal Health Care Program” shall have the meaning set forth in 42 U.S.C. § 1320a-7b(f), as amended from time to time.

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4. Step 4 Calculate Fair Market Value Compensation.

A Tenet entity may not enter into a physician employment arrangement unless the Tenet entity has objectively determined and documented that the compensation being offered to the physician for the services is consistent with fair market value.

a. For services to be compensated on an hourly basis, in order to ensure that the compensation is consistent with fair market value, the Tenet entity shall derive an hourly rate to be utilized in calculating the compensation by taking the average of the 50th percentile salary for the physician’s specialty⁷ of the most recent publications of four national salary surveys and dividing the resulting figure by 2,000 hours. The four national surveys may be selected from any of the following five surveys: (1) Sullivan, Cotter & Associates, Inc. -- Physician Compensation and Productivity Survey; (2) Hay Group -- Physician Compensation Survey; (3) Hospital and Healthcare Compensation Services – Physician Salary Survey Report; (4) Medical Group Management Association – Physician Compensation and Productivity Survey; and (5) ECS Watson Wyatt – Hospital and Healthcare Management Compensation Report.


The Tenet entity shall multiply the hourly rate derived above (or any lesser amount) by the projected number of hours set forth in the physician employment agreement in order to determine the compensation to be offered for the services of the particular physician.

Notwithstanding the foregoing, if the Tenet entity believes that the compensation derived from the above methodology does not represent fair market value of the physician’s services, the Tenet entity may seek approval of a higher compensation amount from the Regional Senior Vice President, Regional Counsel and Assistant General Counsel, provided that all other requirements of this policy are met. The Tenet entity shall provide all supporting documentation, as well as any other information requested, to the CATS package.

b. For full-time employment services, in order to ensure that the compensation is consistent with fair market value, the Tenet entity shall derive an annual compensation salary equal to or less than the average of the 50th percentile salary for the physician’s specialty⁸ of the most recent publications of four national salary surveys. The four national surveys may be selected from any of the following five surveys: (1) Sullivan, Cotter & Associates, Inc. -- Physician Compensation and Productivity Survey; (2) Hay Group -- Physician Compensation Survey; (3) Hospital and Healthcare Compensation Services – Physician Salary Survey Report; (4)

⁷ If the physician’s specialty is not included in the survey, general practice shall be used in the calculation.

⁸ If the physician’s specialty is not included in the survey, general practice shall be used in the calculation.

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Medical Group Management Association – Physician Compensation and Productivity Survey; (5) ECS Watson Wyatt – Hospital and Healthcare Management Compensation Report.

Notwithstanding the foregoing, if the proposed physician employment agreement includes bonus compensation that has the potential to exceed the average compensation derived from the above methodology, the Tenet entity may seek approval of a higher compensation amount from the Regional Senior Vice President, Regional Counsel and Assistant General Counsel provided that all other requirements of this policy are met. The Tenet entity shall provide all supporting documentation, as well as any other information requested, to the CATS package.

5. Step 5 Review the Requirements of the Physician Employment Agreement.

The Tenet entity shall confirm that the proposed physician employment arrangement will meet all of the following requirements, which shall be included in the physician employment agreement:


a. The physician employment arrangement shall be evidenced by a written physician employment agreement contained in the Law Department’s Contractual Arrangements and Hospital Governance Manual (CAM) signed and dated by both parties. There shall be no oral or implied understandings that are not incorporated in the written agreement.

b. If the employment arrangement is for the provision of part-time medico-administrative services, and if the services are not rendered on a fixed periodic schedule (e.g., each weekday from 8:00 a.m. to 1:00 p.m.), the physician employment agreement shall require that the physician contemporaneously record the services furnished and the time required to furnish the services, on a physician Activity Log.⁹

c. The physician employment agreement shall set forth with specificity all of the services to be furnished by the physician. For part-time arrangements, the designated duties shall not include (1) advertising or marketing on behalf of the Tenet entity, (2) duties which the physician is obligated to perform free of charge as a result of his or her licensure or medical staff membership, including, without limitation, attendance at meetings that the physician is otherwise required to attend, such as regularly scheduled or mandatory medical staff meetings, (3) continuing medical education (unless approved by the hospital’s Regional Counsel and Assistant General Counsel¹⁰), (4) review of medical journals and periodicals, (5) any entertainment activities, (6)

⁹ “Activity Log” means the Activity Log contained in the CAM and attached as an exhibit to the agreement.

¹⁰ “Assistant General Counsel” means the Assistant General Counsel in the Tenet Law Department who oversees Tenet’s Regional Counsel.

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completing time logs, including, without limitation, activity logs, or (7) duties that involve the counseling or promotion of a business arrangement or other activity that violates any federal or state law. The designated duties shall be specific to the physician employment arrangement in question.

d. The term of the physician employment agreement shall not exceed five (5) years, except as approved in advance by the Assistant General Counsel. Notwithstanding, the physician employment agreement may contain an automatic month-to-month renewal provision for up to six (6) months provided the arrangement is on the same terms and conditions as the immediately preceding agreement but shall otherwise require affirmative renewal by mutual written agreement of the parties.

e. The physician employment arrangement shall not be conditioned on the physician (a) making referrals to the Tenet entity, (b) being in a position to make or influence referrals to the Tenet entity, or (c) otherwise generating business for the Tenet entity; provided, however, that the physician employment agreement may require that the physician obtain and maintain active staff privileges at the Tenet entity if appropriate for the services in question, and provided, further, that the employment agreement may require referrals to the Tenet entity if (i) the referral requirement is set forth in writing in the physician employment agreement, (ii) the requirement does not apply if the patient expresses a preference for a different provider, the patient's insurer determines the provider, or the referral is not in the patient's best medical interests in the physician's sole judgment, (iii) the required referrals relate solely to the physician's services covered by the scope of the employment and are reasonably necessary to effectuate the legitimate business purpose of the employment relationship, and (iv) the agreement is approved in advance by the Assistant General Counsel. In no event will the physician be required to make referrals to a Tenet entity that relate to services that are furnished by the physician outside the scope of his or her employment with Tenet.

f. The remuneration paid by the Tenet entity to the physician under the physician employment agreement shall not vary (or be adjusted or renegotiated) in any manner based on the volume or value of any actual or expected referrals to, or business otherwise generated for, the Tenet entity by the physician, except that the physician may be paid a productivity bonus based on services personally performed by the physician, or, for a Tenet entity that operates a "group practice" (as that term is defined in 42 C.F.R. § 411.352), a productivity bonus based on services personally performed by the physician or "incident to" such services, or a share of "overall profits of the group," as that term is defined in 42 C.F.R. § 411.352(i).

g. No physician shall be precluded or restricted in any way from (a) establishing staff privileges at any other hospital or facility, (b) except as permitted by paragraph

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IV.A.5.e. above, referring patients to or utilizing the services of any other hospital or facility, or (c) otherwise generating business for any other hospital or facility.

h. Any part-time physician employment agreement for medico-administrative services shall provide that the agreement may be terminated by the Tenet entity if, for a given payment period, the physician does not furnish adequate, contemporaneous documentation pursuant to Step 9 of this policy indicating that he or she fully discharged all designated duties during the payment period.


i. Except for terminations permitted by the physician employment agreement, the remuneration set forth in the physician employment arrangement shall not be amended after the physician employment agreement is executed by the parties, except by mutual agreement with the advance approval of the Assistant General Counsel.

j. The physician shall agree to treat in a nondiscriminatory manner patients receiving medical benefits or assistance under any federal health care program.

k. Other than as specifically provided for in this Policy, the compensation paid to the physician shall not directly or indirectly benefit any individual (other than the employed physician) or entity in a position to make or influence patient referrals to, or otherwise generate business for, the Tenet entity.

l. The physician employment agreement will require the physician to abide by Tenet's compliance obligations. Specifically, the physician will be required to have received, read, understood and abide by Tenet's [Standards of Conduct](#). The parties to the physician employment agreement shall comply with Tenet's Compliance Program and Tenet's policies and procedures related to the Anti-Kickback Statute and the Stark Law. A summary of Tenet's Compliance program and a link to Tenet's policies and procedures shall be provided to the physician upon request. Further, the parties to the physician employment agreement shall certify that they shall not violate the Anti-Kickback Statute and/or the Stark Law. The physician shall complete any training required under the [CIA](#).


6. Step 6 Prepare the Contractual Arrangements Term Sheet (CATS) Package.

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For each proposed physician employment arrangement, the Tenet entity shall prepare all of the following documentation for submission with the CATS package into eCATS:

- a. A cover memorandum that includes:
 - (1) a detailed description of the services to be provided;
 - (2) the reasons why the Tenet entity needs the services, and in the case of professional medical services, why the services cannot or should not be billed directly to the patient or payor by the physician;
 - (3) the physician’s qualifications;
 - (4) for hourly services, the reasons why the number of hours required for the services is appropriate with attached supporting documentation;
 - (5) the means of calculating the fair market value of the remuneration;
 - (6) an outline of the terms and conditions of the proposed physician employment arrangement, and a summary of any amendments or supplements made to the CAM agreement;
 - (7) an outline of all previous, current or anticipated arrangements or agreements between the Tenet entity and the physician and/or any immediate family member¹¹ of the physician;
 - (8) a statement of whether any immediate family members of the physician have a financial arrangement with the Tenet entity;
 - (9) a statement of whether any immediate family member of the physician is currently in a position to generate patient referrals or other business for the Tenet entity, market the Tenet entity’s services, or furnish items or services to the Tenet entity, and if the answer to any of these questions is “yes,” the name(s) of the immediate family member(s) and a comprehensive description of the Tenet entity’s relationships with the immediate family member, including copies of any agreements then in effect; and

¹¹ “Immediate Family Member” means a husband or wife; birth or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

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(10) a statement that the proposed physician employment agreement represents the entire agreement with respect to the physician employment arrangement between the Tenet entity and the physician.

b. A fully completed CATS signed by the Chief Executive Officer and Chief Financial Officer, setting forth the total dollar value (or, as applicable, the estimated maximum total dollar value) of the remuneration that may be furnished by the Tenet entity pursuant to the physician employment agreement, and any other agreement, during the term;

c. A draft CAM agreement;

d. Copies of all internal and external correspondence (including e-mails, memos or other like materials) that have been generated in connection with the proposed physician employment arrangement;

e. A copy of the physician's current curriculum vitae;

f. A criminal background check on the physician;

g. A copy of the physician's current professional license or other valid evidence of current licensure;


h. The results of an OIG/GSA search noting no exclusions, suspensions or debarments of the physician from participation in any federal health care program;

i. Any original source or other documentation required to support the statements included in the cover memorandum; and

j. Any other information required by the Tenet entity's Regional Counsel or the Assistant General Counsel.

7. **Step 7 Obtain Legal Review and Approval.**

No physician employment agreement shall be executed until the hospital's Regional Counsel and Assistant General Counsel, has reviewed and approved the proposed physician employment arrangement to ensure compliance with the applicable laws and ensured that all documents relevant to the proposed physician employment arrangement are set forth in eCATS.

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8. Step 8 Execute the Physician Employment Agreement.

The CATS package shall be submitted for review and approval in eCATS. Once all required approvals have been obtained and are documented in eCATS, the CEO may execute the physician employment agreement on behalf of the Tenet entity. The CEO shall notify the physician that he/she shall not perform any of the designated duties, and the Tenet entity shall not provide any compensation in connection with a physician employment agreement, until after the physician employment agreement and all supporting documents have been executed by all parties. Immediately after execution of the physician employment agreement, the CEO, or his designee, shall scan the executed agreement into the eCATS system.

9. Step 9 Documenting the Physician’s Completion of Part-Time Duties.


The physician shall be required to contemporaneously document his or her time spent performing his or her designated duties under any part-time physician employment agreement for medico-administrative services. Such documentation shall be submitted to the Tenet entity on a monthly basis, in the form of an activity log attached to the physician employment agreement. The physician shall personally complete, sign and date his or her activity log. Part-time professional medical services rendered on a fixed periodic schedule may be documented by the monthly schedule as verified at month-end by the Tenet entity.

Only time that a physician spends on his or her designated duties under a physician employment agreement shall be reimbursable, and all other time, including, but not limited to, time relating to the physician’s private practice, if any, shall not be reimbursable.

Where the physician is required to submit a physician activity log, the CEO and CFO shall each provide written certification in the form set forth on the log attached to the physician employment agreement that (1) they have reviewed the activity log, (2) they are aware of no inaccuracies therein, (3) the activity log was submitted on a timely basis as described in this subsection, and (4) the hours documented therein satisfy the physician’s obligation under the physician employment agreement.

A part-time physician’s failure to sign, date and submit his or her activity log applicable to a given month by due date shall constitute a breach of the physician employment agreement. If the breach is not cured within 15 days of the due date, then the Tenet entity shall have the right to terminate the physician in accordance with the terms of the physician employment agreement.

For part-time physician employment agreements compensated on an hourly basis, if, in any given month while a physician employment agreement is in effect, a physician provides fewer hours of

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physician employment than the projected number of hours, then the physician shall be compensated at the hourly rate for each hour of services actually provided as set forth in the physician employment agreement.


The CFO is responsible for ensuring that payments are recorded in accordance with Tenet's accounting policies and are charged only to accounts designated for such arrangements.

10. Step 10 Renewal/Amendment.

Renewal or amendment of the agreement is permitted only through a full review of the entire arrangement through the CATS process as provided in Steps 6 and 7, except that when the parties seek only to extend the terms of an existing physician employment agreement, without amendment, using the standard renewal form from the CAM, the Tenet entity need only submit in eCATS the following:

- a. a memorandum (1) indicating that the parties seek only the extension (without amendment) of an existing physician employment agreement and (2) detailing why the physician employment arrangement is still needed and, if applicable, whether/why the physician employment arrangement necessitates the same number of duty hours;
- b. a draft CAM renewal letter;
- c. copies of all internal and external correspondence (including, but not limited to, e-mails, memos or other file materials) that have been generated in connection with renewal of the physician employment arrangement, including, if applicable, a copy of the activity logs for the last six months;
- d. the results of a new OIG/GSA search noting no exclusions, suspensions or debarments of the physician from participation in any federal health care program and verification of current professional licensure;
- e. any other information required by the Tenet entity's Regional Counsel or the Assistant General Counsel; and
- f. for a physician employment agreement for professional medical services, a detailed financial statement for the prior calendar or fiscal year

B. Document Retention.

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The Tenet entity shall retain all CATS packages, agreements and other documentation relating to each physician employment arrangement in accordance with [Administrative Policy AD 1.11, Records Management](#).

C. Enforcement.

All employees whose responsibilities are affected by this Policy are expected to be familiar with the basic procedures and responsibilities created by this Policy. Failure to comply with this Policy will be subject to appropriate disciplinary action pursuant to all applicable policies and procedures, up to and including termination. Such disciplinary action may also include modification of compensation, including any merit or discretionary compensation awards.

V. REFERENCES:

- Stark Law, 42 U.S.C. § 1395nn, and implementing regulations
- Employment exception, 42 U.S.C. § 1395nn(e)(2); 42 C.F.R. § 411.357(c).
- Definition of Immediate Family Member, 42 C.F.R. § 411.351.
- Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b):
- Employment Exception, 42 U.S.C. § 1320a-7b(b)(3)(B).
- Safe Harbor for Employees, 42 C.F.R. § 1001.952(i).
- [Tenet Contractual Arrangements Manual \(CAM\)](#)
- [CAM Standard Form Physician Employment Agreement](#)
- [Administrative Policy AD 1.11, Records Management](#)
- Tenet [Standards of Conduct](#)
- [Corporate Integrity Agreement](#) dated September 27, 2006 between Tenet Healthcare Corporation and the Office of Inspector General of the Department of Health and Human Services