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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 greater than 50%; 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 “provider”) (collectively, “Tenet”).


II. PURPOSE

The purpose of this policy is to ensure, through the implementation of prudent and reasonable controls, that:

- A. all medical directorship arrangements are undertaken only when a provider has a legitimate need for a physician to provide the type and quantity of medical directorship services contemplated to promote quality, cost-effective care or to fulfill other legitimate needs of the provider;
- B. the remuneration paid pursuant to all medical directorship arrangements is commercially reasonable and consistent with fair market value for the medical directorship services furnished;
- C. all medical directorship services furnished pursuant to a medical directorship arrangement are adequately and contemporaneously documented by the medical director
- D. all medical directorship arrangements comply with applicable laws and regulations, including the federal Anti-Kickback law and the Stark law; and
- E. under no circumstance will a directorship 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. DEFINITIONS:

- A. **“Medical Directorship Arrangement”** means an arrangement pursuant to which a provider provides remuneration to a physician for the performance of medico-administrative services furnished by the physician on behalf of the provider.
- B. **“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.

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- C. **“Medical Directorship Services”** or **“Services”** mean medico-administrative services furnished by a physician on behalf of a provider, consistent with this policy.
- D. **“Remuneration”** means anything of value, including, but not limited to, cash, items or services.
- E. **“Fair Market Value”** means the value in arm’s-length transactions, consistent with the compensation that would be included in a service 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.
- F. **“Medical Director”** means a physician performing medical director services as an independent contractor of a provider pursuant to a medical director agreement.
- G. **“Federal health care program”** means any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government, including, but not limited to: Medicare, Medicaid/MediCal, managed Medicare/Medicaid/MediCal, TriCare/VA/ CHAMPUS, SCHIP, Federal Employees Health Benefit Plan, Indian Health Services, Health Services for Peace Corps Volunteers, Railroad Retirement Benefits, Black Lung Program, Services Provided to Federal Prisoners, Pre-Existing Condition Insurance Plans (PCIPs) and Section 1011 Requests.

IV. POLICY:

A provider may not enter into a medical directorship arrangement unless the provider has an objectively determined, legitimate need for the medical directorship services contemplated by the medical directorship arrangement.


V. PROCEDURE:

- A. Hospital Implementation:

The provider 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 provider shall identify any mandates or recommendations from legal authorities (*e.g.*, Medicare requirement for a director of a rehabilitation unit, 42 C.F.R. § 412.29(f), inpatient psychiatric services, 42 C.F.R. § 412.27(d), nuclear medicine services, 42 C.F.R § 482.53(a), respiratory

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care services, 42 C.F.R. § 482.57(a), skilled nursing facility, etc.), government organizations, provider accreditation bodies, medical education program accreditation bodies, independent third party consultants, third party payers, or the provider’s medical staff or governing board, and any other evidence, indicating that one or more physicians should be retained to furnish the medical directorship services contemplated by the medical directorship arrangement in order to promote quality, cost-effective care or fulfill other legitimate needs of the provider.


2. Step 2 Project the Number of Hours Required

A provider may not enter into a medical directorship arrangement unless the provider has made an objective determination that the number of hours of medical directorship services contemplated by the medical directorship arrangement is reasonable and necessary to accomplish the provider’s legitimate needs for the medical directorship services. The provider must prepare a written projection of the number of hours reasonably necessary to discharge the medical directorship 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 provider’s medical staff or governing board;
- b. data from time logs; and/or
- c. other factors, such as the number of physicians with medical staff privileges in the applicable specialty, the size of the applicable department, unit or service line, the average daily census of the applicable department, unit or service line, and the medical acuity and needs of the patients in the applicable department, unit or service line.

3. Step 3 Demonstrate the Professional Qualifications of the Proposed Medical Director

- a. A provider may not enter into a medical directorship arrangement unless the provider has objectively determined that the medical director is qualified and capable of performing the medical directorship services. To demonstrate each medical director’s qualifications, the provider must:
- b. verify that each medical director is qualified and capable of furnishing the medical directorship services (i.e., the medical

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director must confirm that he/she does not have other preexisting obligations which would limit or restrict the medical director from fully performing the medical directorship services);

- c. obtain a copy of each proposed medical director’s curriculum vitae;
- d. verify that each proposed medical director is either board-certified in his or her medical specialty or has been practicing in his or her medical specialty continuously for at least five years; 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, the Office of Inspector General’s (OIG) of the Department of Health and Human Services List of Excluded Individuals/Entities, and any applicable state healthcare exclusion list, that each medical director (and, in the context of a medical directorship agreement with a group practice, the group) has no exclusions, suspensions or debarments from participation in any Federal health care program.

4. Step 4 Calculate Fair Market Value Compensation

A provider may not enter into a medical directorship arrangement unless the provider has objectively determined and documented that the remuneration being offered to the physician for the medical directorship services is consistent with fair market value. In order to ensure that the remuneration is consistent with fair market value, the provider shall derive an hourly rate to be utilized in calculating the remuneration by taking the average of the 50th percentile salary for the physician’s specialty¹ of the most recent publications of four national salary surveys and dividing the resulting figure by 2,000 hours (the “Hourly Rate”). The provider may use a hourly rate between the Hourly Rate and 140 percent of the Hourly Rate up to a maximum of \$150/hr. If the Hourly Rate derived by the calculation supports a hourly rate in excess of \$150/hr. then the provider may use the higher amount. 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.

¹ If the physician’s specialty is not included in the survey, please contact your Regional Counsel for guidance.

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The provider shall multiply the hourly rate by the projected number of hours set forth in the medical directorship agreement in order to determine the remuneration to be offered for the services of a particular medical director.


Notwithstanding the foregoing, in exceptional cases, if the provider believes that a compensation amount that differs from and exceeds the average hourly compensation derived above is fair market value, and all other requirements of this policy are met, the provider may seek approval of the proposed hourly compensation from the Regional Senior Vice President, Regional Counsel and Assistant General Counsel.² The provider shall provide all supporting documentation, as well as any other information requested, to the CATS package.

5. Step 5 Review the Requirements of the Medical Directorship Agreement

The provider shall confirm that the proposed medical directorship arrangement will meet all of the following terms to be included in the medical directorship agreement:


- a. The medical directorship arrangement shall be evidenced by a written medical directorship agreement contained in the Law Department’s Contractual Arrangements and Hospital Governance Manual (CAM) signed and dated by all parties. There shall be no oral or implied understandings that are not incorporated in the written agreement. If the medical director is not affiliated with a group practice, the agreement shall be between the provider and the physician who will provide the medical directorship services (the individual agreement). If the medical director is an employee, independent contractor, partner, member or is otherwise affiliated with a group practice, the agreement shall be among the provider and the group practice (the group agreement) and the agreement shall identify the physician who will provide the directorship services. In the event that the provider desires for a physician to serve as a medical director of more than one department of the provider, the provider shall obtain the advance approval of the Regional Counsel and shall prepare separate agreements, require separate logs and make separate payments to the physician to

² Throughout this policy, the Assistant General Counsel approval can also be accomplished by Tenet’s General Counsel.

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ensure that expenses are appropriately allocated for cost reporting purposes.

- b. The medical directorship agreement shall require that the medical director contemporaneously record his or her medical directorship services on the medical director activity log.
- c. If a provider proposes entering into a group agreement, the group practice shall furnish the provider with a written representation and warranty that (1) the compensation of each physician affiliated with the group including, without limitation, shareholders, members, partners, employees and independent contractors (a) will be commercially reasonable and consistent with fair market value; and (b) will not vary with, or reflect or relate to – either directly or indirectly – the volume or value of patient referrals (actual or anticipated) to, or other business generated for, the hospital; and (2) that the group practice agrees to comply with all relevant claims submission and billing laws and regulations.
- d. The medical directorship agreement shall set forth with specificity all of the medical directorship services to be furnished by each medical director. The designated duties shall not include (1) advertising or marketing on behalf of the provider, (2) clinical duties for which a proposed medical director or an affiliated group practice is permitted to bill and retain payment from patients or third party payers, (3) duties which a proposed medical director 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 proposed medical director is otherwise required to attend, such as regularly scheduled or mandatory medical staff or governing board meetings, (4) continuing medical education (unless approved by the hospital's Regional Counsel and Assistant General Counsel), (5) review of medical journals and periodicals, (6) any entertainment activities, (7) completing time logs, including, without limitation, activity logs, or (8) 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 medical directorship arrangement in question.
- e. The term of the medical directorship agreement shall be at least one year, but shall not exceed two (2) years. The medical directorship agreement may contain an automatic month-to-month renewal provision for up to six (6) months provided the


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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.

- f. The medical directorship agreement shall provide that, in the event the agreement is terminated during the first year of the term, then neither the provider and any medical director, nor the provider and any affiliated group practice, shall enter into an arrangement for the same items and services for the remainder of the first year of the intended term of the agreement. Notwithstanding, if the agreement does not contain similar language and the agreement is terminated during the first year of the term, then neither the provider and any medical director, nor the provider and any affiliated group practice, shall enter into an arrangement for the same items and services for the remainder of the first year of the intended term of the agreement.
- g. The medical directorship arrangement shall not be conditioned on any proposed medical director or, in the event of a group agreement, the group practice or any physician affiliated with the group practice, (a) making referrals to the provider, (b) being in a position to make or influence referrals to the provider, or (c) otherwise generating business for the provider; provided, however, that the medical directorship agreement shall require that the proposed medical director obtain and maintain active staff privileges at the provider.
- h. The remuneration paid by the provider to any medical director and/or affiliated group practice under the medical directorship agreement shall take the form of a fixed monthly payment (which shall be subject to reduction or forfeiture pursuant to the conditions described in Step 9, and shall be a function of (1) the projected hours to be provided by the medical director, and (2) the hourly rate for discharge of the duties set forth in the medical directorship agreement).
- i. The remuneration paid by the provider to any medical director and/or affiliated group practice under the medical directorship 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 provider by any medical director or, in the event of a group agreement, by the group practice or any individual or entity affiliated with the group practice.

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- j. No medical director, or, in the event of a group agreement, any physician affiliated with the group practice, shall be precluded or restricted in any way from (a) establishing staff privileges at any other hospital or facility, (b) referring patients to or utilizing the services of any other hospital or facility, or (c) otherwise generating business for any other hospital or facility.
- k. The medical directorship agreement shall provide that remuneration shall not be paid by the provider to a medical director and/or affiliated group practice (as appropriate) for a given payment period unless the medical director furnishes adequate, contemporaneous documentation pursuant to Step 9 indicating that he or she fully discharged all designated duties during the payment period.
- l. Except for terminations permitted by the medical directorship agreement, or unless otherwise approved by Regional Counsel, the remuneration set forth in the medical directorship arrangement shall not be renegotiated, renewed, extended or amended after the medical directorship agreement is executed by the parties.
- m. Each medical director and any affiliated group practice shall agree to treat in a nondiscriminatory manner patients receiving medical benefits or assistance under any federal health care program.
- n. Other than as specifically provided for in this policy, the remuneration shall not directly or indirectly benefit any individual or entity in a position to make or influence patient referrals to, or otherwise generate business for, the provider.
- o. The directorship agreement will require the physician and the group practice, if applicable, to abide by Tenet's Compliance Program. Specifically, the physician and group will be required to have received, read, understood and abide by Tenet's [Standards of Conduct](#). The parties to the directorship 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 and group upon request. Further, the parties to the directorship agreement shall certify that they shall not violate the Anti-Kickback Statute and/or the Stark Law. The physician and group, if applicable, shall complete any training required under Tenet's Compliance Program.

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

For each proposed medical directorship arrangement, the provider shall prepare all of the following documentation for submission with the CATS package into eCATS:

- a. A cover memorandum (Note: a sample cover memo is included in the CAM Forms) that includes:
 - (1) a listing of all the provider’s existing medical directorship arrangements (indicating the title and summarizing the duties associated with each medical directorship arrangement), noting which of these medical directorship arrangements are in the same department or with respect to the same service line as the proposed medical directorship arrangement, and explaining why none of the existing medical directors in that department or service line, if any, can discharge the designated duties associated with the proposed medical directorship arrangement;
 - (2) the reasons why the provider needs the medical directorship;
 - (3) each medical director’s qualifications;
 - (4) the reasons why the number of hours required for the medical directorship 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 medical directorship arrangement, and a summary of any amendments or supplements made to the CAM individual or group agreement (as appropriate);
 - (7) an outline of all previous, current or anticipated arrangements or agreements between (a) the provider and each proposed medical director and/or any immediate family member of each proposed medical director, or (b) the provider and the group practice with which each proposed medical director is affiliated, or any other physician affiliated with such group practice;

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- (8) a statement of whether any immediate family members of any of the proposed medical directors has a financial arrangement with the provider;
 - (9) a statement of whether any immediate family member of any of the proposed medical directors is currently in a position to generate patient referrals or other business for the provider, market the provider's services, or furnish items or services to the provider, 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 provider's relationships with the immediate family member, including copies of any agreements then in effect;
 - (10) a statement that the proposed medical directorship agreement represents the entire agreement with respect to the medical directorship arrangement between the provider and the proposed medical director or group practice, as appropriate ; and
 - (11) for medical directorship agreements that require the automatic QM Review (see [Law Department Policy L-15, Electronic Contract Approval Term Sheet "eCATS" Policy, Section V.A.4.a.](#)), a statement including the following data:
 - (a) percentage of patients for whom the medical director will also serve as the attending physician;
 - (b) number of additional attending physicians for the services; and
 - (c) if the service is an inpatient service:
 - (i) the Average LOS and ADC for the past three months; and
 - (ii) whether is more than one inpatient unit providing the service and the number of licensed beds per unit.
- b. A fully completed CATS signed by the Chief Executive Officer (CEO) and Chief Financial Officer (CFO), setting forth the total dollar value of the remuneration that may be furnished by the provider pursuant to the medical directorship agreement, and any other agreement, during the term;


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- c. A draft CAM medical directorship 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 medical directorship arrangement;
- e. A copy of each proposed medical director’s current curriculum vitae;
- f. The results of a search of the U.S. General Services Administration’s Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs, the Office of Inspector General of the Department of Health and Human Services List of Excluded Individuals/Entities and any applicable state healthcare exclusion list noting no exclusions, suspensions or debarments of the proposed medical director (in the case of an individual agreement), or of each proposed medical director and the group practice (in the case of a group agreement), from participation in any Federal health care program;
- h. Any original source or other documentation required to support the statements included in the cover memorandum; and
- i. Any other information required by the provider’s Regional Counsel or the Assistant General Counsel.

7. Step 7 Obtain Legal Review and Approval

No medical directorship agreement shall be executed until the hospital’s Regional Counsel and, if applicable, Assistant General Counsel, has reviewed and approved the proposed medical directorship arrangement and the medical directorship agreement to ensure compliance with the applicable laws and ensured that all documents relevant to the proposed medical directorship arrangement and medical directorship agreement are set forth in eCATS. If any one or more of the following apply, the Assistant General Counsel shall also be required to approve the CATS package prior to the execution of the proposed medical directorship agreement by the provider:

- a. The medical director arrangement proposes an hours requirement in excess of 25 hours per month (excluding medical director arrangements for which federal or state law or regulation requires a greater number of hours per month); or

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- b. The remuneration set forth in the medical directorship agreement exceeds the hourly rate range set forth in Step 4.

8. Step 8 Execute the Medical Directorship 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 medical directorship agreement on behalf of the provider. The CEO shall notify the proposed medical director that he/she shall not perform any of the designated duties, and the provider shall not provide any remuneration in connection with a medical directorship agreement, until after the medical directorship agreement and all supporting documents have been executed by all parties. Immediately after execution of the medical directorship agreement, the CEO, or his designee, shall scan the executed agreement into the eCATS system.


9. Step 9 Documenting the Medical Director’s Completion of Duties Prior to Payment

Each medical director shall be required to contemporaneously document his or her time spent performing his or her designated duties under a medical director agreement. Such documentation shall be submitted to the provider on a monthly basis, in the form of the activity log attached to the medical directorship agreement. Each medical director shall personally complete, sign and date his or her activity log.

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

No provider shall furnish any remuneration to a medical director for any given month unless and until:

- a. the medical director legibly completes in all material respects the activity log applicable to such month;
- b. the medical director signs, dates and submits the activity log applicable to a given month by the date set forth in the directorship agreement;
- c. the Department/Unit Director/Supervisor shall review and sign the logs for applicability of reported activities;

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- d. the Hospital Compliance Officer shall review and sign the logs for completeness, legibility and overall compliance with the terms of the agreement; and
- e. the CEO and CFO each provide written certification in the form set forth on the log attached to the medical directorship 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 medical directorship agreement.

A medical director's failure to sign, date and submit his or her activity log applicable to a given month by the due date set forth in the agreement shall result in a forfeiture of compensation due for that particular month.


If, in any given month while a medical directorship agreement is in effect, a medical director provides fewer hours of medical director services than the projected number of hours, then the medical director or group practice (as appropriate) shall be compensated at the hourly rate for each hour of medical directorship services actually provided as set forth in the medical directorship agreement.

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

B. 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 medical directorship agreement, without amendment, using the standard directorship renewal form from the CAM, the provider need only submit in eCATS the following:

- 1. a memorandum (1) indicating that the parties seek only the extension (without amendment) of an existing medical directorship agreement and (2) detailing why the medical directorship arrangement is still needed and whether/why the medical directorship arrangement necessitates the same number of duty hours (e.g., if a medical director is retained to assist the provider in opening a new clinical service line in year one, the provider must indicate why the same type and intensity of work will be required of the medical director in year two);

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2. a draft CAM renewal letter;
3. 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 medical director arrangement;
4. the results of a new OIG/GSA search, and any applicable state healthcare exclusion list search, noting no exclusions, suspensions or debarments of the medical director (in the case of an individual agreement), or of each medical director and the group practice (in the case of a group agreement), from participation in any Federal health care program; and
5. any other information required by the provider's Regional Counsel or the Assistant General Counsel.

C. Documentation Retention


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

D. 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, as allowed by applicable law.

V. REFERENCES:

- Stark Law, 42 U.S.C. § 1395nn, and implementing regulations
- Personal Services Arrangements exception, 42 U.S.C. § 1395nn(e)(3); 42 C.F.R. § 411.357(d)
- Definition of Immediate Family Member, 42 C.F.R. § 411.351
- Fair Market Value exception, 42 C.F.R. § 411.357(l)
- Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)

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- Safe Harbor for Personal Services and Management Contracts
- 42 C.F.R. § 1001.952(d)
- [Tenet Contractual Arrangements Manual \(CAM\)](#)
- CAM Instructions for Form and Contents of Medical Directorship Agreements
- [CAM Standard Form Medical Director Agreements](#)
- CAM Standard Form Medical Directorship Agreements, including form of Activity Log
- CAM Standard Form Medical Directorship Renewal Agreements
- [Administrative Policy AD 1.11, Records Management](#)
- [Tenet Standards of Conduct](#)