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## I. SCOPE:

This policy applies to (i) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates; (2) any other entity or organization in which Tenet Healthcare Corporation or 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”). This policy addresses the circumstances under which a Teaching Hospital may enter into a Mission Support Arrangement with an Academic Medical Center. This policy does not apply to arrangements with Academic Medical Center components or Faculty that are structured to comply with any other Law Department Policy, including [Policy L-1 Business Courtesies to Physician and Immediate Family Members](#), [Policy L-2 Physician Relocation](#), [Policy L-3 Medical Directorships](#), or [Policy L-5 Professional Services Arrangements](#).

## II. PURPOSE:

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


- A. Mission Support Arrangements are undertaken only to support the teaching, indigent care, research and community service<sup>1</sup> missions (the “Mission”) of an Academic Medical Center;
- B. Mission Support Arrangements comply with applicable laws and regulations, including the Federal Health Care Program (as defined in 42 U.S.C. § 1320a-7b(f), as amended from time to time), anti-kickback law (the “Anti-Kickback Law”) and the federal physician self-referral law (the “Stark Law”); and
- C. In no circumstances will any Mission Support Arrangement involve a hospital paying or transferring remuneration to a Medical School, Faculty Practice Plan, physician or any other person or entity, directly or indirectly, with the intent to induce the physician or other individual or entity to refer patients to, or otherwise generate business for, the hospital.

## III. DESCRIPTIONS:

- A. “**Academic Medical Center**” means an entity or group of entities operating in affiliation to provide undergraduate and graduate medical education and research, and may include the following components: (a) a Medical School; (b) a Faculty Practice Plan; (c) a Foundation; and (d) one or more Teaching Hospital(s).

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<sup>1</sup>In the Phase I Stark regulations, CMS stated that “. . . patient care is integral to an academic medical center’s community service mission.” 66 Fed. Reg. 916 (Jan. 4, 2001).

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- B. “**Adjunct Faculty**” include voluntary, courtesy, adjunct or clinical series faculty who maintain a private clinical practice independent of the Medical School and Faculty Practice Plan who provide substantial academic services or substantial clinical teaching services (or a combination of both) on behalf of the Medical School.
- C. “**Faculty**” means a Physician with a current full-time appointment to the Medical School who provides substantial academic services or substantial clinical teaching services (or a combination of both) on behalf of the Medical School.
- D. “**Teaching Hospital**” means, for the purpose of this policy, a hospital in which a majority of the physicians on the medical staff (excluding residents) hold a faculty appointment to a Medical School and a majority of all hospital admissions are made by such faculty.


#### IV. POLICY:

Tenet entities shall only enter into Mission Support Arrangements with an Academic Medical Center that comply with applicable laws and regulations, including the federal Anti-Kickback law and the Stark law.

#### V. PROCEDURE:

##### A. Hospital Implementation


1. Each Mission Support Arrangement shall be set forth in a written agreement, the Mission Support Agreement, between the Teaching Hospital and the Medical School or the Teaching Hospital and a foundation or other non-profit support organization whose primary purpose is to support the Medical School’s Mission (“Foundation”) that is signed and dated by duly authorized representatives of each party, the effective date of which shall be on or after the date executed by all parties. A template of the Mission Support Agreement, as reviewed and approved by Tenet’s Law Department, is available in Tenet’s [Contractual Arrangements Manual \(CAM\)](#).
2. Any and all remuneration transferred from the hospital to the Medical School pursuant to the Mission Support Agreement (the “Support Remuneration”) shall be transferred solely in support of the Medical School’s Mission. While it is anticipated that the Teaching Hospital and Medical School will consider how best to support their joint mission, the Teaching Hospital may not approve or reject proposed grant requests or specific grant uses on the basis of the value or volume of referrals or other business generated or reasonably anticipated to be generated for the Teaching Hospital as a result of such grant use.

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3. Separate and apart from the Mission Support Agreement, the hospital shall not enter into, or make any payments or provide remuneration in connection with or support of, any other arrangement that supports a particular function of the Medical School, Faculty Practice Plan or any individual physicians affiliated with the Medical School except as otherwise permitted under another Law Department policy.
4. The term of a Mission Support Agreement shall not exceed three years, unless otherwise approved in advance by the Assistant General Counsel – Operations,<sup>2</sup> although the Medical School and hospital may discuss multi-year mission support issues, for planning purposes only, through an Advisory Board established in accordance with this policy.
5. The Support Remuneration shall be transferred by the hospital only to the Medical School or Foundation, and shall not be transferred by the hospital directly to a Faculty Practice Plan or any physician.
6. The Support Remuneration shall be transferred in equal quarterly installments during the term of the Mission Support Agreement, unless a different arrangement is approved in advance, in writing, by the Assistant General Counsel - Operations.
7. The Support Remuneration (if in the form of cash or cash equivalents) shall be deposited by the Medical School or Foundation in an account segregated from the other funds of the Medical School or Foundation.
8. The Medical School shall provide a quarterly accounting to the hospital of the allocation and use of all Support Remuneration transferred, which shall be exclusively in support of the Medical School’s Mission.
9. In connection with each Mission Support Arrangement, an Advisory Board shall be established to engage in annual discussions regarding Academic Medical Center planning issues that relate to the Mission. The Advisory Board may review requests from the Medical School for Mission support and may make recommendations to the hospital about which of the particular programs within the Medical School’s Mission should be supported and at what financial levels such Support Remuneration should be given; however, the Advisory Board shall have no authority to direct or recommend particular uses of any Support Remuneration that has already been transferred or that has already been pledged pursuant to an executed Mission Support Agreement. The Advisory Board shall be equally comprised of representatives of the hospital and the Medical


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<sup>2</sup>Throughout this policy, the Assistant General Counsel – Operations’ approval can also be accomplished by Tenet’s General Counsel.

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School/University, as well as at least one representative of Tenet’s Law Department and one representative of the Medical School’s legal department. The Advisory Board will serve a purely advisory role; it will have no decision-making authority. The hospital members of the Advisory Board shall have no vote and no veto authority with respect to the current allocation or use of the Support Remuneration or any other matters discussed by the Advisory Board.


10. The Medical School shall furnish the hospital with written representations and warranties (the “Representations”) that neither the Medical School (or its affiliated university) nor a Foundation nor any Faculty Practice Plan nor any other entity that receives financial support or any other remuneration from the Medical School, University or any Foundation:
  - a. Will provide any remuneration to any physician unless such remuneration:
    - (1) is commercially reasonable and consistent with fair market value; and
    - (2) does not vary with or otherwise take into account, directly or indirectly, the volume or value of patient referrals to, or other business generated for, the hospital or any affiliate of the hospital by the physician;
  - b. Will use Support Remuneration to support research conducted by the Medical School, its affiliated University or any physician, regardless of whether such research is performed at the Medical School or at the hospital, unless such research is conducted in compliance with applicable laws and regulations, and any money paid to a physician for research is used solely to support bona fide research or teaching and is consistent with the terms and conditions of the grant.
  - c. Will use Support Remuneration to support any Adjunct Faculty except such support as may be incidental to a program or project of which the primary purpose is to support Faculty.
  
11. The Medical School shall maintain appropriate and complete records which document that the Representations continue to be true and correct during the term of the Mission Support Agreement. On an annual basis, by no later than March 1 of each year in which a Mission Support Agreement is or was in effect, the Medical School shall provide the hospital with a written certification that the Representations continue to be true and correct.

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12. The transfer of remuneration pursuant to a Mission Support Agreement shall in no way be conditioned, either directly or indirectly, on the agreement of the Medical School (or any of its affiliates), Faculty Practice Plan or any physician not to compete with the hospital with respect to any health care diagnostic or ancillary service(s).
13. The transfer of remuneration pursuant to a Mission Support Agreement shall in no way be conditioned, either directly or indirectly, on the agreement of the Medical School (or any of its affiliates), Faculty Practice Plan or any physician (a) to refer patients or business to, order, purchase or lease health care items or services from, or recommend that others (or arrange for others to) order, purchase or lease health care items or services from the hospital or any other person or entity, or (b) to cause any physician to so refer, order, purchase, lease, recommend or arrange. Consistent with the foregoing, the Medical School will certify the following in connection with each Mission Support Agreement:
14. The Medical School will not require or encourage Faculty or Adjunct Faculty to refer patients to the hospital or any other institution.<sup>3</sup>
15. The Medical School will not track referrals made by Faculty or Adjunct Faculty to the hospital or any other institution.
16. Compensation paid to Faculty or Adjunct Faculty (including, without limitation, base salaries paid for clinical or academic services and variable bonuses paid for clinical services) will not be related to the volume or value of referrals by such physicians to the hospital or any other institution. Such compensation will be consistent with fair market value for the services provided.
17. On an annual basis, the Medical School will provide written notice of the limitations described in each of the three foregoing paragraphs to all Faculty and Adjunct Faculty.
18. The Mission Support Agreement will require the Medical School, Faculty and Adjunct Faculty, if applicable, to abide by Tenet's Compliance Program. Specifically, the Medical School, Faculty and Adjunct Faculty will be required to have received, read, understood and abide by Tenet's Code of Conduct. The parties to the Mission Support 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

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<sup>3</sup>Consistent with its responsibilities as a teaching institution, the Medical School may require Faculty to admit patients only to facilities that have an academic affiliation with the Medical School.

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and procedures shall be provided to the Medical School, Faculty and Adjunct Faculty upon request. Further, the parties to the Mission Support Agreement shall certify that they shall not violate the Anti-Kickback Statute and/or the Stark Law. The Medical School, Faculty and Adjunct Faculty, if applicable, shall complete any training required under Tenet's Compliance Program.

**B. Review and Approval of Mission Support Arrangement**

1. Preparation of CATS Package. The hospital shall submit the following documents (the "CATS Package") in connection with each request for review and approval of a proposed Mission Support Arrangement:
  - a. A cover memorandum that identifies:
    - (1) each component of the Academic Medical Center;
    - (2) the key terms of any Affiliation Agreement between the hospital and Medical School;
    - (3) a description of the requirements for medical staff membership in the Teaching Hospital;
    - (4) a description of the historical relationship between the Medical School (or any predecessor) and the Teaching Hospital (or any predecessor);
    - (5) a list of residency programs sponsored by the Medical School or supervised by Faculty for which the Teaching Hospital is not the sole major participating institution;
    - (6) a statement that the Teaching Hospital has satisfied the definition of Teaching Hospital for each of the immediately preceding three (3) academic years and that the CEO believes, based on reasonable investigation, that it will continue to meet the definition throughout the term of the proposed Mission Support Arrangement.
    - (7) all of the terms and conditions of the proposed Mission Support Arrangement;
    - (8) any Mission Support Arrangements that the hospital or any other Tenet affiliate has entered into with the Medical School within the previous ten (10) years;

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- (9) a statement that the proposed Mission Support Agreement represents the entire agreement with respect to the Support Remuneration between the hospital and the Medical School or Foundation; and
  - (10) any other information or materials requested by the Regional Counsel or Assistant General Counsel-Operations.
- b. A copy of the Affiliation Agreement.
  - c. If the proposed Mission Support Agreement is with a Foundation, a copy of the articles of incorporation or charter of the Foundation.
  - d. A completed CATS and Contract Data Sheet (“CDS”) signed by the hospital’s Chief Executive Officer (“Hospital CEO”) and Chief Financial Officer (“Hospital CFO”), setting forth the total Remuneration to be transferred by the hospital to the Medical School during the term of the Mission Support Agreement.
  - e. A letter signed by the Dean or other authorized officer of the Medical School affirming the written representations and warranties of the Medical School to be required under the Mission Support Agreement by Section V.A.10 above.
  - f. A draft Mission Support Agreement.
  - g. Copies of all internal and external correspondence (including, but not limited to, e-mails) that have been generated in connection with the proposed Mission Support Arrangement.
  - h. Any other information required by the Regional Counsel or Assistant General Counsel - Operations.
2. Submission and Approval of CATS Package. Mission Support Agreements must in all cases be approved by the Assistant General Counsel - Operations. Mission Support Agreements are unlike most other referral source arrangements in that they are by definition non-fair market value and not protectable by any safe harbor. Consequently, each CATS Package must be evaluated by the Law Department on a case-by-case basis taking into account the historical and current relationship among the components of the Academic Medical Center. The CATS Package shall be submitted in eCATS. All approvals must also be set forth in eCATS. All approvals must be obtained before the hospital executes the Mission Support Agreement.

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3. Execution of Mission Support Agreement. Once all required approvals have been obtained and are documented in eCATS, the Hospital CEO may execute the Mission Support Agreement on behalf of the hospital. The hospital shall not transfer any funds to the Medical School in connection with a Mission Support Arrangement until after the Mission Support Agreement and all supporting documents have been executed by all parties.

4. Early Termination


The hospital may not terminate or withhold payments of the Support Remuneration unless:

- a. a determination is made by hospital's legal counsel or by a court of competent jurisdiction or by a government agency that the Mission Support Arrangement is inconsistent with any law, rule, regulation, standard, interpretation, order, decision or judgment;
- b. a court having proper jurisdiction enters a decree or order for relief in respect of the hospital in a voluntary or involuntary case under applicable bankruptcy, insolvency or other similar law;
- c. the Medical School has closed or is unable to fulfill its Mission due to a cessation of Medical School functions;
- d. the Medical School or Foundation, as applicable, is in material breach of the Mission Support Agreement as determined by the Assistant General Counsel - Operations; or
- e. the Medical School or a Faculty Practice Plan is excluded, suspended or debarred from participation in any federal health care program.

All early terminations of Mission Support Agreements shall be reviewed and approved by the Assistant General Counsel - Operations.

C. Document Retention

The hospital shall retain all CATS Packages, agreements, reconciliations, and other documentation (including, but not limited to, all audits) relating to a Mission Support Arrangement according to the requirements of Administrative Policy AD 1.11 Records Management.

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D. Responsible Person

The Hospital CEO is responsible for ensuring that all individuals adhere to the requirements of this policy. If the Hospital CEO is unable to create adherence to this policy, the Hospital CEO shall immediately report the non-adherence to the Hospital Compliance Officer.

E. Auditing and Monitoring

Tenet Audit Services will audit compliance with this policy as part of its routine audits.

F. 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 performance management pursuant to all applicable policies and procedures, up to and including termination. Such performance management may also include modification of compensation, including any merit or discretionary compensation awards, as allowed by applicable law.

**VI. REFERENCES:**

- Stark Law, 42 U.S.C. § 1395nn, and implementing regulations
- Anti-Kickback Law, 42 U.S.C. § 1320a-7b(b), and implementing regulations
- OIG Advisory Opinion No. 00-6
- OIG Advisory Opinion No. 02-11
- OIG Advisory Opinion No. 05-11
- [Tenet Contractual Arrangements Manual \(CAM\)](#)
- CAM Form Mission Support Agreement