	Law Department Policy	No.	L-16	
	Title:	Page:	1 of 3	
	TRACKING REMUNERATION AND USE OF ITEMS AND SERVICES TO AND FROM REFERRAL SOURCES AND TRACKING USE OF TENET RESOURCES BY REFERRAL SOURCES	Effective Date:	09-27-11	
		Retires Policy Dated:	05-06-08	
		Previous Versions Dated:	01-01-07	

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 “Tenet Facility”) (collectively, “Tenet”).

II. PURPOSE:


The purpose of this policy is to ensure compliance with the federal Anti-Kickback Statute and Stark Law and the regulations, directives and guidance related to those statutes.

III. DEFINITIONS:

- A. **“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.
- B. **“Referral Source Arrangement”** means any arrangement or transaction that involves, directly or indirectly, the offer or payment of anything of value and is between a Tenet Facility and any actual source of referrals from Federally funded health care programs; or an arrangement that is between a Tenet Facility and a physician (or physician’s immediate family member) who makes a referral to Tenet for designated health services as defined under the Stark Law.

IV. POLICY:

Each Tenet Facility shall track remuneration provided to or received from Referral Sources. Each Tenet Facility also shall track items, services and other Tenet resources provided to or received from Referral Sources.

	Law Department Policy	No.	L-16	
	Title:	Page:	2 of 3	
	TRACKING REMUNERATION AND USE OF ITEMS AND SERVICES TO AND FROM REFERRAL SOURCES AND TRACKING USE OF TENET RESOURCES BY REFERRAL SOURCES	Effective Date:	09-27-11	
		Retires Policy Dated:	05-06-08	
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V. PROCEDURE:

A. Facility Implementation

1. Step 1: Obtain Legal Review and Approval


Every Tenet Facility is responsible for ensuring that, prior to execution, all Referral Source Arrangements are reviewed and approved by Regional Counsel through the Electronic Contract Approval Term Sheet (eCATS) system. (See [Law Department Policy L-15 Electronic Contract Approval Term Sheet \(“eCATS”\) Policy](#)) The Tenet Law Department has adopted a number of policies specific to particular types of Referral Source Arrangements, and each Tenet Facility is responsible for complying with the applicable policy(ies). In the event the proposed Referral Source Arrangement is not addressed by an existing specific Law Department policy, the Tenet Facility shall contact Regional Counsel for guidance and obtain approval from the Vice President and Assistant General Counsel, Hospital Operations¹ in the Law Department before entering into such Arrangement. Any Referral Source Arrangement not covered by a specific Law Department policy must nonetheless conform to the general principles for Referral Source Arrangements embodied in the Law Department policies and the CIA.

The Chief Financial Officer of each Tenet Facility shall be responsible for ensuring adherence to the Law Department policies. After approval and execution, all Referral Source Arrangements shall be loaded into eCATS.

2. Step 2: Tracking Remuneration

Each Tenet Facility shall designate an individual or individuals who are responsible for tracking all remuneration to and from Referral Sources. Such tracking should occur on a regular periodic basis and should be conducted at least once per calendar year for each Referral Source. This tracking shall ensure that all payments to Referral Sources are made in accordance with an approved written agreement loaded into eCATS.

¹ Throughout this policy, the Assistant General Counsel, Hospital Operations approval can also be accomplished by Tenet’s General Counsel.

	Law Department Policy	No.	L-16	
	Title:	Page:	3 of 3	
	TRACKING REMUNERATION AND USE OF ITEMS AND SERVICES TO AND FROM REFERRAL SOURCES AND TRACKING USE OF TENET RESOURCES BY REFERRAL SOURCES	Effective Date:	09-27-11	
		Retires Policy Dated:	05-06-08	
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3. Step 3: Tracking Use of Tenet Resources

Each Tenet Facility shall develop and maintain a reasonable system of monitoring procedures and other internal controls designed to ensure that any services, leased space, medical supplies, medical devices, equipment, or other items provided to Referral Sources are provided pursuant to a written agreement reviewed and approved in advance in accordance with the applicable Law Department Policy. Each Tenet Facility shall designate an individual or individuals who are responsible for assessing these controls and reviewing the circumstances under which leased space, medical supplies, medical devices, equipment or other items or services are provided to Referral Sources. To the extent that Tenet space, items or services are provided to Referral Sources, this person shall ensure that such activity is consistent with the terms of the written agreement with the Referral Source (except to the extent that such activity does not require a written agreement based on the provisions of 42 C.F.R. § 411.357 or any other exception to the prohibitions of 42 U.S.C. § 1395nn). This review and analysis shall take place at least once per calendar year, and the individual(s) responsible for the review shall maintain written records documenting the review and analysis procedures performed.

B. 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:

- [Law Department Policies](#)
- Stark Law, 42 U.S.C. §1395nn, and implementing regulations
- Anti-Kickback Law, 42 U.S.C. §1320a-7b(b), and implementing regulations
- 42 C.F.R. § 411.357