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 entity in which an Affiliate either manages or controls the day-to-day operations of the entity (each, an “entity”) (each, a “Tenet Entity” and collectively, “Tenet”).

II. PURPOSE:

The purpose of this policy is to ensure, through the implementation of prudent and reasonable controls, that Tenet Entities monitor their activities to ensure that resources such as leased space, medical supplies, medical devices, equipment or other patient care items or services are not provided to or received from a Referral Source without a written Agreement to the extent an Agreement is required by Tenet Law Department Policies.

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, and Pre-Existing Condition Insurance Plans (PCIPs).

B. “Immediate Family Member” means 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 of a Physician or non-Physician Referral Source.

C. “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 or any entity other than publicly traded entities which is wholly or partially owned by a Physician.

D. “Referral Source” means a Physician or other person or entity that can influence or recommend the purchasing, leasing, ordering or arranging for any goods, facility item or service paid for, in whole or in part, by a Federal or state Health Care program. It is anyone (including his/her/its Immediate Family Members) who has the capacity to refer or influence the flow of Medicare/Medicaid or other Federal Health Care Program business to another party including anyone who has referred a patient to the Tenet Entity in the past
Law Department Policy

Title: MONITORING USE OF RESOURCES PROVIDED TO OR RECEIVED FROM REFERRAL SOURCES

No. L-16

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Effective Date: 02-01-17

Retires Policy Dated: 09-27-11

Previous Versions Dated: 05-06-08; 01-01-07

or who is reasonably anticipated to refer a patient to the Tenet Entity in the future. This definition includes instances when a Tenet Entity or facility is the party in a position to refer or influence the referral of Federal Healthcare Program business to a vendor and includes Immediate Family Members of Referral Sources. Examples of Referral Sources are listed on Exhibit A.

E. “Referral Source Agreement” or “Agreement” means a written agreement reflecting an arrangement or transaction that involves, directly or indirectly, the offer or payment of anything of value and is between a Tenet Entity and any actual source of referrals from Federally funded health care programs; or an arrangement that is between a Tenet Entity 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:

The Compliance Officer assigned to each Tenet Entity is responsible for establishing and overseeing processes to monitor resources provided to or received from Referral Sources to ensure that, to the extent required by Tenet Law Department Policies, the use of such resources is compensated pursuant to a written Agreement. This review and analysis shall occur at least once per calendar year. The Compliance Officer may delegate monitoring activities to other individuals at the Tenet Entity provided that the Compliance Officer oversees and ensures that such activities are completed as required. The Compliance Officer assigned to each Tenet Entity shall report the results of each annual review to the Tenet Entity’s Compliance Committee.

V. PROCEDURE:

A. Monitoring Resources Provided to and Received from Referral Sources

Each Tenet Entity shall develop and maintain a reasonable process to monitor resources such as services, leased space, medical supplies, medical devices, equipment, or other items or services provided to or received from Referral Sources to ensure that the use of such resources is compensated pursuant to a written Agreement to the extent a written Agreement is required by Tenet Law Department Policy.

For purposes of illustration, the following is a non-exhaustive list of examples of the type of monitoring contemplated by this Policy:

- Walking space leased to or from Referral Sources to confirm that the space actually occupied is consistent with the space designated in the Lease Agreement and that additional space is not being used without compensation set forth in a written Agreement
• Confirming that Referral Sources are not utilizing the Tenet Entity’s services or supplies for the benefit of their private office practices or businesses without compensation set forth in a written Agreement (e.g. hospital staff scheduling of Physician office appointments unrelated to hospital care, hospital advertising for Physician offices without charge, Physician office use of reference lab or sterilization services provided by the hospital but for the benefit of a Physician practice)

• Confirming that Referral Sources are not utilizing the Tenet Entity’s medical devices, scrubs, pathology slides or other supplies or equipment for the benefit of their private office practices or businesses without compensation set forth in a written Agreement

• Confirming that a Referral Source is not using a closet on the Tenet Entity’s premises to store its supplies or equipment without compensation set forth in a written Agreement (e.g., a Durable Medical Equipment Supplier storing its equipment in a hospital closet)

• Confirming that a hospital is not lending staff or providing staff services to a Referral Source without compensation set forth in a written Agreement

For purposes of illustration, the following is a non-exhaustive list of resources provided to Physicians that do not require a written Agreement pursuant to the Stark Law or Tenet Law Department Policies:

• Medical staff meals provided in the Physician dining room in compliance with Tenet Law Department Policy

• Items logged on the Physician Non-Monetary Compensation Log in compliance with Tenet Law Department Policy

• Physician attendance at a medical staff event hosted in compliance with Tenet Law Department Policy

The Tenet Entity’s Compliance Officer is responsible for ensuring that each review and analysis occurs at least once per calendar year.

If the Tenet Entity’s Compliance Officer identifies any potential violations of Tenet Law Department Policy, the Compliance Officer shall open a compliance issue in the compliance system as described in Regulatory Compliance Policy COMP-RCC 4.21 Internal Reporting of Potential Compliance Matters.

The Tenet Entity’s Compliance Officer shall also report the results of each annual review to the Tenet Entity’s Compliance Committee. The minutes of the
Compliance Committee meeting shall reflect the review and analysis procedures performed and actions taken to comply with the Tenet Law Department Policies.

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
- Regulatory Compliance Policy COMP-RCC 4.21 Internal Reporting of Potential Compliance Matters
- 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

VII. EXHIBITS:

- Exhibit A: Examples of Referral Sources and Non-Referral Sources
Examples of Referral Sources

Examples of Referral Sources include, but are not limited to:

- Physicians (M.D. or D.O.), a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor;

- any Entity or vendor owned in whole or in part by a Physician who is in a position to refer patients to the Tenet Entity (use the Stark II Inquiry form to ascertain Physician ownership), but excluding ownership by a Physician in (1) publicly traded companies or (2) other passive investments such as pension funds, real estate mortgage investment conduits (REMICs), or other fund or investment vehicle for which investments are made by a manager on behalf of multiple investors where the individual investors do not have ability to influence the investments or activities of the company or fund;

- hospitals, SNFs, LTACs, ASCs, clinics, hospices, home health agencies, psychiatric facilities, nursing homes;

- ambulance companies;

- third party managers of a facility or a department of a facility such as Horizon or Rehabcare;

- Physician extenders such as nurse practitioners, Physicians assistants, CRNAs, but only to the extent that the practitioner is privileged at the hospital and licensed to independently order procedures for patients of the Tenet Entity;

- physical, speech and occupational therapists and athletic trainers;

- providers of clinical-related Services, such as dialysis providers, lithotripsy providers, wound care providers;

- OR monitoring Services/neuromonitoring Services;

- psychologists;

- any arrangement with an academic medical center or component of the AMC that is affiliated with or refers business to the Tenet Entity;

- locum tenens arrangements;

- reference labs if the lab sends specimens to the Tenet Entity for processing or if the reference lab is in a local hospital;

- any arrangement with a DME supplier, pharmaceutical manufacturer or distributor, medical device manufacturer or distributor for continuing medical education (CME) sponsorship, clinical research studies or fellowship programs. Notwithstanding the above, arrangements with any vendor whose sole connection with the Tenet Entity is selling or
otherwise providing medical supplies or equipment to the Tenet Entity are not Referral Source arrangements; and

- arrangements between Tenet hospitals and Tenet Physician practices.

**Examples of Non-Referral Sources and arrangements include, but are not limited to, the following:**

- security services;
- food service agreement (e.g., Morrison);
- agreements with organ procurement agencies, including eye and tissue banks;
- medical physicists and radiation physicists;
- technicians, including but not limited to, ultrasound, ECHO, radiology, polysomnographers, dosimetrist, audiologists;
- perfusionists;
- pharmacists;
- teleradiology agreements for the sole purpose of remote interpretation of film studies;
- respiratory therapists;
- prosthestitits and orthotists;
- psychiatric emergency response teams (PET);
- social workers;
- surgical first assistants;
- master’s level counselors;
- reference labs (provided the lab Entity does not refer to the Tenet Entity); and
- autotransfusion Services or cell savers;
- instructors (aerobics, BCLS, ACLS, weight management, aquatic, nutritionist, lactation, etc.);
- blood banks;
- housekeeping Services;
- linen Services;
- ground keeping, lawn care, maintenance Services;
- pastoral counselors;
- in-house hospital transporters;
- agreements executed by HealthTrust Purchasing Group or other group purchasing organizations;
- outsourced valet Services;
- non-ambulance transport providers;
- consulting agreements with non-Physician owned Entities or with Physician owned Entities where the Physicians are not on the Tenet Entity’s medical staff and are not expected to refer business to or generate other business for the Tenet Entity;
- arrangements with an agency or other Entity that provides supplemental staffing such as RNs, PTs or other providers who would be a Referral Source if the hospital has an arrangement directly with the individual;
- any vendor whose sole connection with the Tenet Entity is selling or otherwise providing medical supplies or equipment to the Tenet Entity;
- infant hearing screeners;
- CME Physician speakers (if not on Tenet Entity medical staff and not practicing in Tenet Entity service area);
- law firms;
- national accounting firms;
- political campaigns;
- arrangements between Tenet hospitals.

Notwithstanding the above, if any of the above Entities are owned in whole or in part by a Physician who is in a position to refer patients or generate other business for the Tenet Entity or is a Referral Source for any other service arrangement, then an arrangement which would otherwise be considered a non-Referral Source arrangement will be a Referral Source arrangement. Likewise, if any person listed above as a non-Referral Source is an Immediate Family Member of a Physician, then the arrangement will be a Referral Source Arrangement. Use of the Stark II Inquiry Form is necessary to ascertain whether a Physician or an Immediate Family Member of a Physician is an owner in an Entity or whether the vendor is an Immediate Family Member of a Physician.

For additional guidance, see the Frequently Asked Questions to Law Department Policy L-15 “eCATS” and contact your Operations Counsel.