

CORPORATE POLICY

Manual/Library Name: Law Department	No: L-28
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Title: Exceptions For Certain Policy Terms During State of Emergency	Effective Date: 08-25-2021
	Previous Versions: 10-05-20; 04-06-20; 03-22-20
	Approved By: Executive Leadership Team
	Approval Date: 08-23-2021

I. Scope:

This policy applies to (1) Tenet Healthcare Corporation and its 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 entity in which Tenet Healthcare Corporation or an Affiliate either manages or controls the day-to-day operations of the entity (each, a “Tenet Entity”) (collectively, “Tenet”).

II. Purpose:

To permit Assistant General Counsel’s approval of exceptions to certain terms of Law Department and Regulatory Compliance Policies (“Identified Policies”) during the federal state of emergency related to COVID-19 (“Exception Period”). All exceptions shall expire at of the end of the Exception Period.

III. Definitions:

Assistant General Counsel: The Assistant General Counsel or, in the case of USPI, Senior Managing Counsel in the Tenet Law Department who oversees the Operations Counsel and for Conifer, its General Counsel. Assistant General Counsel approval can also be accomplished by Tenet’s General Counsel.

IV. Policy:

Facilities operated by a Tenet Entity (each a “Facility”) may enter into arrangements which do not fully comply with the Identified Policies during the Exception Period provided that the arrangement is intended to meet an urgent operational need related to COVID-19, the Facility determines that compliance with the policy will impair its ability to meet the identified operational need, and the deviation from policy is approved in writing by an Assistant General Counsel based on their finding that the arrangement is not conditioned on an intent to induce any person to refer to or otherwise generate business for a Facility or vice versa. No arrangement may be based on or vary by the volume or value of referrals between the parties.

V. Procedure:

A. The Assistant General Counsel may waive provisions in the “Identified Policies and Exceptions” Table found in Exhibit A as an exception pursuant to this policy if he or she determines that waiving

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the requirement meets a critical operational need related to COVID-19 and does not violate the Anti-Kickback Statute.

- B. Any Facility or physician that relies on this policy to enter into arrangements and does not comply with the Stark Law, including the blanket waivers of the Stark Law issued by CMS, will require a bill hold for any physician party to the arrangement.
- C. Exception provisions set forth in the Identified Policies remain effective and are not affected by this Policy.
- D. Notwithstanding any other provision of this policy, all arrangements shall be approved in accordance with L-15, including exigent circumstances approvals. All exception approvals shall be entered into eCATs for the arrangement.

VI. 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.

VII. References:

["Blanket Waivers of Section 1877\(g\) of the Social Security Act Due to Declaration of COVID-19 Outbreak in the United States as a National Emergency"](#) effective March 1, 2020

["OIG Policy Statement Regarding Application of Certain Administrative Enforcement Authorities Due to a Declaration of Coronavirus Disease 2019 \(COVID-19\) Outbreak in the United States as a National Emergency"](#) dated April 3, 2020

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Exhibit A

Identified Policies and Exceptions		
Identified Policy No.	Identified Policy Title	Provision Exceptions ¹
L-1	Business Courtesies to Physicians and Immediate Family Members	<ul style="list-style-type: none"> Non-monetary compensation may be provided in excess of the annual limit.
L-3	Medical Directorships	<ul style="list-style-type: none"> The term of a medical directorship arrangement may be less than 12 months, provided that it is in effect only for the duration of the declared public health emergency. FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.
L-4	Office Space and Equipment Leases with Physicians and Other Potential Referral Sources	<ul style="list-style-type: none"> The requirement of writing signed by both parties for use of space or borrowing of equipment/supplies may be waived if documented in advance by 1 party and a signed agreement obtained as soon as practical. The terms of an office space or equipment lease may be less than 12 months, provided that it is in effect only for the duration of the declared public health emergency. FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.

¹ In addition to the Provision Exceptions, the Assistant General Counsel may approve any other provision of an Identified Policy upon a determination that the waiver meets the criteria for waiver in Section V.A.

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L-5	Personal Services Arrangements with Physicians	<ul style="list-style-type: none"> The requirement of writing signed by both parties for emergent services may be waived if documented in advance by 1 party and a signed agreement obtained as soon as practical. The terms of a personal services arrangement may be less than 12 months, provided that it is in effect only for the duration of the declared public health emergency. On-call schedules may be established by individuals other than those specified in the Job Aid, call may be provided by physicians on a basis other than equal rotation, and a Facility may assume responsibility for reassigning call if the on-call physician is unavailable. Compensation for items may not be required to be set in advance if the parties agree upon a methodology to determine compensation that does not take into account the value or volume of referrals between the parties. FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.
L-6	Hospital-Provided Post-Discharge Assistance to Federal Healthcare Program Beneficiaries	<ul style="list-style-type: none"> Post-discharge assistance may be provided in excess of one time per beneficiary or may extend beyond the support in the policy as wanted to expedite a safe discharge to facilitate care of other patients or minimize risk of infection. To the extent that demonstration of financial need is required by an Identified Policy, the facility shall be required to make reasonable efforts under the circumstances to establish evidence of need.
L-7	Complimentary Local Transportation	<ul style="list-style-type: none"> Post-discharge complimentary local transportation may be provided to any patient as needed at discharge.
L-9	Purchases by Physicians and Other Referral Sources	<ul style="list-style-type: none"> Compensation for items may not be required to be set in advance if the parties agree upon a methodology to determine compensation that does not take into account the value or volume of referrals between the parties. The terms of a purchase arrangement may be less than 12 months, provided that it is in effect only for the duration of the declared public health emergency. FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.

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L-10	Physician Employment	<ul style="list-style-type: none"> • FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.
L-12	Charitable Contributions	<ul style="list-style-type: none"> • The requirement of a writing signed by both parties for charitable donations may be waived. • A Facility may accept donations without providing advance written notice to the donor that it is a for-profit entity.
L-19	Purchasing Implantable Medical Devices from Physician-Owned Distributorships	<ul style="list-style-type: none"> • FMV may be determined and supported by a manner the Assistant General Counsel deems reasonable.
L-20	Hospital Relationships with Ambulance and EMS Providers	<ul style="list-style-type: none"> • Tenet Entities may provide reasonable food, beverages, and break room access to ambulance and EMS personnel. • Tenet Entities may offer restocking to ambulances that do not meet the policy definition of emergency ambulance.
L-25	Fair Market Value ("FMV")	<ul style="list-style-type: none"> • FMV for a new or renewal arrangement may be determined and supported by a manner deemed reasonable by the Assistant General Counsel.
AP-1000	Vendor Maintenance	<ul style="list-style-type: none"> • Advance approval in Tenet's VPQ program of a vendor providing necessary items or services.