

CORPORATE POLICY

Manual / Library: Law Department	No: L-16
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Title: Monitoring Use of Resources Provided to or Received from Referral Sources	Effective Date: 09/22/2021
	Previous Versions: 10-05-20; 02-02-17; 09-27-11; 05-06-08; 01-01-07
	Approved By: Executive Leadership Team
	Approval Date: 09/20/2021

I. Scope:

This policy applies to Tenet Healthcare Corporation and its subsidiaries and affiliates other than Conifer Holdings Inc. and its direct and indirect subsidiaries (each, an “Affiliate”), any other entity or organization in which Tenet or an Affiliate owns a direct or indirect equity interest of greater than 50%, and any entity in which an Affiliate either manages or controls the day-to-day operations of the entity (each, a “Tenet Entity”) (collectively, “Tenet”).

II. Purpose:

To ensure that Tenet Entities monitor their activities so Tenet Entities do not provide to or receive resources from a Referral Source without a written Referral Source Agreement to the extent that Tenet Law Department policies require an Agreement.

Definitions:

Federal Health Care Program: 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. This includes, but is 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).

Immediate Family Member: A 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.

Physician: A duly licensed and authorized chiropractor or doctor of medicine, osteopathy, dental surgery, dental medicine, podiatric medicine, optometry and his or her immediate family members.

Referral Source Agreement (Agreement): A written agreement signed by the parties that reflects an arrangement or transaction that involves, directly or indirectly, the offer or payment of anything of value between a Tenet Entity and any Referral Source.

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Referral Source: 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 state or Federal Health Care Program. Anyone (including 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 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 listed in L-15.DR.01 Examples of Referral Sources.

III. 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 so that the use of such resources is compensated pursuant to a written Agreement to the extent required by Tenet Law Department policies. The Compliance Officer is responsible for conducting review and analysis at least once per calendar year. The Compliance Officer may delegate monitoring activities to other individuals at the Tenet Entity if the Compliance Officer oversees and ensures that the delegated individuals complete such activities as required.

IV. Procedure:

Monitoring Resources Provided to and Received from Referral Sources

- A. 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 pursuant to a written Agreement to the extent Tenet requires a written agreement.
 1. For purposes of illustration, Exhibit A provides a non-exhaustive list of examples of the type of monitoring that Compliance Officers should establish pursuant to this policy.
 2. For purposes of illustration, Exhibit B provides 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.

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

V. 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:

- Exhibit A - Examples of Resources Compliance Officers Should Monitor
- Exhibit B - Examples of Resources Not Requiring an Agreement
- L-1 Business Courtesies to Physicians and Immediate Family Members
- L-15.DR.01 Examples of Referral Sources
- 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

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Exhibit A – Examples of Resources Compliance Officers Should Monitor

This is a non-exhaustive list of examples of the type of monitoring that the Compliance Officer should establish:

- A. 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;
- B. 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);
- C. 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;
- D. 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);
- E. Confirming that a hospital is not lending staff or providing staff services to a Referral Source without compensation set forth in a written Agreement.

Exhibit B – Examples of Resources Not Requiring an Agreement

This 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:

- A. Medical staff meals provided in the Physician dining room in compliance with Tenet Law Department policy;
- B. Items logged on the Physician Non-Monetary Compensation Log in compliance with Tenet Law Department policy;
- C. Physician attendance at a medical staff event hosted in compliance with Tenet Law Department policy.