	Law Department Policy	No. L-18	
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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 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, and in addition to the requirements set forth in Regulatory Compliance policy COMP-RCC 4.21 Internal Reporting of Potential Compliance Issues, that occurrences of noncompliance with Tenet Referral Source Policies are timely evaluated and effectively remedied and that claims to Federal Health Care Programs are placed on hold when policy violations have not been timely evaluated and effectively remedied while remediation continues even if such policy violations do not constitute violations of law.

III. DEFINITIONS:

- A. **“Compliance Officer”** means the compliance officer responsible for the implementation of Tenet’s Compliance Program at the Tenet Entity.
- B. **“Due Date”** means the due date set forth in the Tenet Audit report or, if identified in any other means, thirty (30) days after the date that the report of potential noncompliance is entered into the compliance tracking database.
- C. **“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 Corp Volunteers, Railroad Retirement Benefits Black Lung Program, Services Provided to Federal Prisoners, Pre-Existing Condition Insurance Plans (PCIPs), and Section 1011 Requests.
- D. **“Operations Counsel”** means, in the case of a hospital, its Regional Counsel responsible for hospital legal operations; in the case of a physician organization, its Tenet Physician Resources Counsel responsible for physician practice legal operations and in the case of a non-hospital outpatient facility, its assigned Operations Counsel responsible for outpatient facility legal operations.

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- E. **“Overpayment”** means the amount of money Tenet has received, after applicable reconciliation, in excess of the amount due and payable under any Federal Health Care Program requirements, including applicable federal statutes, regulations, Medicare or other Federal Health Care Program payment manuals or National Coverage Determinations, and Medicare Administrative Contractor Local Coverage Determinations. An Overpayment may be the result of non-adherence to Federal Health Care Program requirements, errors by Tenet personnel, payment processing errors by the payer, or erroneous or incomplete information provided to Tenet by the patient or responsible party.
- F. **“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 Health Care Program or state healthcare 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 Programs 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 is the party in a position to refer or influence the referral of Federal Health Care Program business to a vendor. Examples of Referral Sources are attached to this Policy as Exhibit A.
- G. **“Referral Source Arrangement”** means an arrangement between a Tenet Entity and a Referral Source.
- H. **“Referral Source Laws”** means the federal Stark Law or Anti-Kickback Statute or applicable state self-referral or anti-kickback statutes.
- I. **“Regulatory Counsel”** means, in the case of a hospital, physician organization, and a non-hospital facility, its assigned Regulatory Counsel.
- J. **“Tenet Audit”** means an internal audit of a Tenet Entity’s operations, including but not limited to audits conducted by Tenet’s Audit Services Department, Tenet’s Quality Management Department, Tenet’s Coding Compliance Directors, Tenet SOX audits or any other audit conducted by a Tenet employee authorized to perform audits by the company.
- K. **“Tenet Referral Source Policies”** means Law Department policies related to financial relationships between Tenet Entities and Referral Sources, including Law Policies L-1-5, L-8-13, L-17 and L-19-23.

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IV. POLICY:

Tenet Entities are required to immediately correct noncompliance with Tenet’s Referral Source Policies but, in any event, no later than the Due Date. If the Tenet Entity is unable to achieve compliance with Tenet’s Referral Source Policies by the Due Date, the Tenet Entity shall place a hold on its claims to Federal Healthcare Programs until compliance with Tenet’s Referral Source Policies is achieved unless an extension of time to comply has been granted by the Tenet General Counsel and Tenet Chief Compliance Officer or their respective designees.



V. PROCEDURE

A. Identification of Policy Noncompliance.

1. Upon discovery, by any manner other than a Tenet Audit, of an existing Referral Source Arrangement that may fail to comply with Tenet Referral Source Policies, the employee who discovered the potential noncompliance shall promptly report it to the Tenet Entity’s Compliance Officer and assigned Regulatory Counsel. The Compliance Officer shall promptly enter the matter into Tenet’s compliance tracking database and refer the matter to Regulatory Counsel for evaluation.
2. If any Tenet Audit identifies potential non-compliance with Tenet Referral Source Policies, the auditor issuing the report shall (a) identify the potential noncompliance separately and prominently in the audit report; and (b) ensure that the Tenet Entity’s Compliance Officer, Operations Counsel and Regulatory Counsel, are copied on the audit report. Any potential failure to comply identified in a Tenet Audit report shall be handled through a response to the audit report as described in this policy.

B. Investigation of Policy Violation.



1. Regulatory Counsel shall conduct any necessary investigation in collaboration with the Compliance Officer and shall determine whether the existing arrangement fails to comply with Tenet Referral Source Policies. Regulatory Counsel shall be responsible for keeping Operations Counsel and the Tenet Entity informed throughout the course of the investigation and for obtaining the concurrence of Operations Counsel before taking the actions outlined in this policy. Regulatory Counsel shall also be responsible for providing information to the Tenet Entity for purposes of preparing its response to the Tenet Audit report.
2. If it is determined that a Referral Source Arrangement does not comply with Tenet Referral Source Policies, Regulatory Counsel shall further

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determine (i) whether the noncompliance implicates the Referral Source Laws and (ii) whether the noncompliance has been resolved or is continuing. If the noncompliance has not been resolved and prospective remediation is required to achieve compliance with Tenet Referral Source Policies, Regulatory Counsel shall direct appropriate corrective action, including both prospective remediation of the noncompliance with the Tenet Referral Source Policies and/or Referral Source Laws and any necessary refunds or other corrective action for past conduct that Regulatory Counsel has determined is a probable violation of the Referral Source Laws. Prospective remediation shall include but not be limited to placing the Tenet Entity's claims to Federal Health Care Programs on hold and/or placing the payments to or received from the Referral Source on hold until the Regulatory Counsel has determined that the Arrangement complies with the Tenet Referral Source Policies and Referral Source Laws. To the extent Regulatory Counsel identifies¹ an Overpayment, refunds shall be made in accordance with the requirements of Tenet Regulatory Compliance policy COMP-RCC 4.35 Reporting of Overpayments to Federal Health Care Programs. The Tenet Entity is responsible for implementing the corrective action outlined by Regulatory Counsel no later than the Due Date.

3. If the Tenet Entity believes that the circumstances require additional time to comply with the Tenet Referral Source Policies and that placing Federal Health Care Program Claims on hold during such period creates an excessive financial burden for the facility, the Tenet Entity may request an extension of the due date from both the Tenet General Counsel and Tenet Chief Compliance Officer or their respective designees. Such requests shall be limited to situations where the violations are unclear, where sufficient interim remediation is not available (*e.g.*, an expired written agreement may be corrected with Operations Counsel through a limited written contract extension while negotiations are ongoing) or other circumstances beyond the Tenet Entity's control. If approved, the Tenet General Counsel and Chief Compliance Officer or their designees shall document the additional time provided and the reasons for such extension, and the Regulatory Counsel shall update the compliance database or audit report responses as appropriate.

¹For purposes of this policy, Regulatory Counsel has identified an Overpayment when it has been identified pursuant to COMP-RCC 4.35 Reporting of Overpayments to Federal Health Care Programs.

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4. Regulatory Counsel shall document his/her legal analysis, conclusions and recommended corrective action in response to the Tenet Audit report or in the compliance tracking database, as applicable.

C. Corrective Action.

If Regulatory Counsel recommends corrective action, the Compliance Officer and the Tenet Entity administrative leadership team shall take all necessary steps to promptly implement any recommended prospective remediation.

D. Bill-Hold.



If Regulatory Counsel's recommended prospective remediation is not fully implemented within the due date set forth in the Tenet Audit report or, if identified in any other manner, thirty days after the report of potential noncompliance with Tenet Referral Source Policies, the Compliance Officer and, if necessary, Tenet's Chief Compliance Officer or Deputy Chief Compliance Officer, shall assure that all claims for services rendered to beneficiaries of Federal Health Care Programs pursuant to a referral by a participant in the arrangement are placed on bill-hold until the corrective action is complete and has been validated and approved by the Tenet department responsible for the Tenet Audit. Upon completion of the corrective action, Regulatory Counsel shall provide written direction as to which held claims, if any, may be submitted to the Federal Health Care Programs or a beneficiary of the programs.

E. Document Retention

The Tenet Entity shall retain documentation relating to the identification, evaluation and remediation of matters subject to this policy in Tenet's compliance tracking database. The Tenet auditing department shall retain documentation relating to the identification, evaluation and remediation of matters subject to this policy in a centralized audit repository designated by the Ethics and Compliance Department. All documents shall be subject to Administrative policy AD 1.11 Records Management and its Records Retention Schedule.

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.

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VII. REFERENCES:

- Section 6402(a) of the Affordable Care Act requiring return of overpayments within 60 days including the reason for receipt of the overpayment.
- Federal Regulations regarding refunding self-identified Medicare overpayments, 42 CFR Parts 401 and 405
- Regulatory Compliance policy COMP-RCC 4.35 Reporting of Overpayments to Federal Healthcare Programs

VIII. ATTACHMENTS:

- Attachment A: Examples of Referral Sources and Non-Referral Sources (excerpt from Frequently Asked Questions for Law Department policy L-15 Electronic Contract Approval Term Sheet)