

<b>DEPARTMENT:</b> Legal	<b>POLICY DESCRIPTION:</b> Physician Employment
<b>PAGE:</b> 1 of 4	<b>REPLACES POLICY DATED:</b> 2/24/97, 2/11/98, 6/1/02, 3/15/03, 5/31/04, 8/31/05, 1/1/06, 2/1/06, 5/15/10, 10/15/10
<b>EFFECTIVE DATE:</b> February 1, 2012	<b>REFERENCE NUMBER:</b> LL.006
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

<p><b>SCOPE:</b> All Company facilities worldwide including, but not limited to, hospitals, ambulatory surgery centers, home health centers, home health agencies, physician practices, outpatient imaging centers, service centers, joint ventures and all Corporate departments, Groups, Divisions and Markets.</p>
<p><b>PURPOSE:</b> The purpose of this policy is to ensure compliance with all applicable federal and state laws, including, without limitation, Stark II and the Anti-Kickback Statute, and to promote sound business judgments in connection with arrangements for physician employment.</p>
<p><b>POLICY:</b></p> <ol style="list-style-type: none"> <li>1. <b><u>Written Agreements</u></b> All employment arrangements with physicians for clinical services (<i>i.e.</i>, any service provided by physician in which he or she is practicing medicine rather than managing or providing an oversight service) or with physicians who refer patients to the facility for any reason must be in writing and such written employment agreements (hereinafter referred to as employment agreements) must comply with this policy. Employment arrangements for administrative (<i>i.e.</i>, non-clinical) services with physicians who do not refer patients to the facility are not required to be in writing and shall be treated as any other administrative employment relationship.</li> <li>2. <b><u>Compliance with State and Federal Fraud &amp; Abuse Laws</u></b> All physician employment arrangements must comply with all applicable federal and state laws, including but without limitation, Stark II and the Anti-Kickback statute, both as amended from time to time. All such employment arrangements must be undertaken without regard to the value or volume of referrals and must not include any intention to induce referrals.</li> <li>3. <b><u>Compliance with State “Mini-Stark II,” “Corporate Practice Doctrine” and “Fee Splitting” Legislation</u></b> All physician employment arrangements must comply with all applicable state “mini-Stark II,” “corporate practice doctrine,” and “fee splitting” legislation. Operations Counsel is available to assist you in making this determination.</li> <li>4. <b><u>Compliance with the Standard of Fair Market Value and Commercial Reasonableness</u></b> The amounts paid to physicians under an employment agreement shall be no greater than the fair market value for the services provided, shall not be based upon the value or volume of referrals or any referral relationship between the parties, and shall be commercially reasonable even if no referrals were made to the employer by the physician.</li> <li>5. <b><u>Independent Evaluation of Fair Market Value</u></b> To substantiate that the amount of compensation paid under an employment agreement is consistent with fair market value, the Company requires procedural approvals to be satisfied (as set forth below) and, in some cases, may require an independent, third-party evaluation of</li> </ol>

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fair market value compensation for any such agreements. In making its determination whether a physician employment arrangement is fair market value for services rendered, the Company may wish to compare it to one or more recognized independent standards as reported by other health care experts, such as MGMA.

**6. Productivity Requirement**

- a. **General Considerations.** Where permitted by law, the Company strongly encourages productivity based arrangements instead of salary guarantees or other employment arrangements. In the context of a medical practice acquisition or equity MSO, the form of productivity compensation must conform to the standards set forth in the Guidelines and Procedures established by HCA Physician Services (HCAPS).
- b. **Incident to and personally performed compensation.** For solo physicians, compensation should only be based upon the services personally performed by the employed physician and any E/M services appropriately billed as “incident to.” For physicians who are part of a “group practice” as defined by Stark, compensation may be based upon services personally performed by the employed physician and all services that are appropriately billed as “incident to” under the Medicare regulations. Your Operations Counsel should be consulted as to whether there is a “group practice” that meets the Stark definition.
- c. **Supervision Compensation.** In the situation where a physician employee is not compensated for “incident to” services as set forth above in Section 6(b) and the physician employee provides a level of supervision to non-physician practitioners that is significant enough to require additional compensation, then the physician employee may be compensated at a set rate such as hourly, monthly, or per chart reviewed at FMV for those supervision duties. If a physician employee is compensated for services billed “incident to” as set forth above, then the physician should not be paid an additional amount for supervising non-physician practitioners.

**7. Benefits and Expenses**

Except as otherwise specifically stated or modified by the written employment agreement, the physician employee shall be entitled to the same benefits and the provision of the same items (e.g., pager, cell phone, PDA) as other employees at his or her level within the organization in accordance with the employer’s policies and procedures. Likewise, and except as specifically stated otherwise in the written employment agreement, the employer shall pay all expenses of the employee generated in the course of the employee performing his or her duties pursuant to the employment agreement in accordance with its policies and procedures. Where no written agreement is required, the benefits and expenses shall be the same as other employees at his/or her level within the organization.

Any agreement with a physician who is a Foreign Official must also comply with the Global Anti-Corruption Policy, LL.AC.001.

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<p><b><u>DEFINITION:</u></b></p> <p><b>Approving Authority:</b> For purposes of this policy, the approving authority is the Division President or the Market President, except where the Division or Market President is also the CEO of the facility, in which case approval should come from the next highest position.</p> <p>Company colleagues should consult the definition of “Foreign Official,” provided in the Global Anti-Corruption Policy, LL.AC.001, and be aware that physicians and other employees of hospitals or other facilities owned or controlled by national, state or local governments of any Foreign Country may be considered Foreign Officials under the Global Anti-Corruption Policy and Foreign Corrupt Practices Act.</p>
<p><b>PROCEDURE:</b></p> <ol style="list-style-type: none"> <li>1. <b>Compliance with Applicable Laws</b> The Company intends to follow the guiding principles of the federal “safe harbors” and to fit within the Stark II exceptions with respect to all physician employment arrangements.</li> <li>2. <b>Review of Legal Counsel</b> All physician employment agreements must be reviewed and approved as to form by the appropriate Operations Counsel. The Legal Department has pre-printed form contracts which will cover most situations. Operations Counsel may require proof of fair market value by written third-party evaluation or reference to an acceptable standard, such as MGMA.</li> <li>3. <b>Agreement Approval Process</b> All physician employment agreements must be approved by the appropriate Approving Authority and HCA Physician Services (HCAPS) Vice President, except that agreements to employ residents and fellows must be approved by the facility CEO and Approving Authority.</li> <li>4. <b>Certifications</b> The Approving Authority and HCAPS Vice President (facility CEO as to residents and fellows) each shall certify that: <ul style="list-style-type: none"> <li>• He or she has reviewed the arrangement for the employment agreement.</li> <li>• He or she is familiar with the Company’s policies and guidelines related to physician employment agreements.</li> <li>• Except as included or disclosed in the approval documentation, there are no other arrangements, oral or written, with the physician.</li> <li>• The employment is for clearly identifiable services.</li> <li>• The agreement is commercially reasonable even if no referrals are made to a Company-affiliated facility.</li> <li>• The amount offered is consistent with and does not exceed fair market value for the services to be provided by the physician.</li> </ul> </li> </ol>

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<ul style="list-style-type: none"> <li>No portion of the physician's compensation is being paid with an intention to induce referrals to any Company facility, and the amount of compensation was not determined in a manner that takes into account (directly or indirectly) the volume or value of referrals by the physician.</li> </ul> <p>This Certification shall be delivered to Operations Counsel prior to his or her final approval of the employment agreement.</p>
<p><b>REFERENCES:</b> 42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952(a)-(v); 42 U.S.C. § 1395nn(e)(2); 60 Fed. Reg. 41914 (8/14/1995); 63 Fed. Reg. 1659 (1/9/1998); 66 Fed. Reg. 856 (1/4/2001); 69 Fed. Reg. 16054 (3/26/2004); Global Anti-Corruption Policy, <a href="#">LL.AC.001</a></p>