

APPROVAL: CEO/President
APPROVAL: Compliance Committee
APPROVAL: Board of Directors
COMPLIANCE: Accounting
COMPLIANCE: Administration
COMPLIANCE: Compliance & Ethics
COMPLIANCE: Legal Services
REFERENCE: Stark II, Phase III, Effective December 4, 2007
REFERENCE: 42 U.S.C. 1320a-7b; 42 C.F.R. 1001.952(a)-(v)
REFERENCE: 42 U.S.C. 1395nn; 42 C.F.R. §411.350-411.361 (Stark Regulations)
REFERENCE: OIG Supplemental Compliance Program Guidance for Hospitals, dated January 31, 2005
REFERENCE: AD1.0119 Fair Market Value Policy
PREPARER: Legal Services
Compliance

SCOPE:

This policy applies to Tomball Hospital Authority d/b/a Tomball Regional Hospital (“Tomball,” “Hospital” or “TRH”) and any other entity or organization in which Tomball or affiliate owns a direct or indirect equity interest of 50% or more.

PURPOSE:

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 medical practice asset acquisitions. The purpose of this policy is also to ensure compliance with the terms of the Corporate Integrity Agreement (“CIA”) dated July 23, 2007, and the CIA Amendment dated May 5, 2009, between Tomball Hospital Authority d/b/a Tomball Regional Hospital (the “Hospital”) and the Office of the Inspector General (“OIG”) of the Department of Health and Human Services.

DEFINITIONS:

1. “Physician” means a duly licensed doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.
2. “Immediate family member” or “member of physician’s immediate family” 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.
3. “Focus Arrangement” means an arrangement between the Hospital and any Focus Arrangement Entity.
4. “Focus Arrangement Entity” means any individual or entity that is in a position to

make or influence health care business or referrals to the Hospital; or is a physician who is a member of the Hospital's Medical Staff or is an immediate family member of a physician on the Hospital's Medical Staff.

POLICY:

The Hospital may purchase a medical practice or medical practice assets when the following conditions are met:

- (i) All transactions involving the purchase of a medical practice or medical practice assets comply with all applicable federal and state laws, including, without limitation, Stark II and the Anti-Kickback Statute, both as amended from time to time. The acquisition must be structured as a one-time transaction with no "earn outs" or similar contingent or installment payments to the seller of the medical practice. No transaction may be conducted if any one purpose of the transaction is to obtain or reward referrals by the selling physician or entity.
- (ii) The aggregate purchase price paid by the Hospital to acquire a medical practice or medical practice assets shall be no greater than the appraised fair market value. Such value shall in no way reflect, directly or indirectly, the value or volume of referrals to the Hospital and must not have any intention, directly or indirectly, to induce referrals between the parties. The Hospital requires obtaining an independent, third-party written evaluation of the practice assets to be transferred, which evaluation shall establish fair market value of the assets as of closing using recognized valuation methodologies and reasonable economic and market assumptions. The terms and conditions for acquiring assets shall be commercially reasonable and consistent with the Hospital's overall strategies.

PROCEDURE:

1. Conceptual Approval of Acquisition

All physician practice asset acquisitions shall be conceptually approved by the President/CEO and/or the Board of Directors prior to obtaining an independent, third-party appraisal of the practice. The conceptual approval process and documentation may include a summary of relevant information regarding the practice and physicians and justification for acquiring the practice assets.

2. Calculate Fair Market Value

To determine the fair market value of the assets, an independent third-party written evaluation will be obtained for each physician practice acquisition. See AD1.0119 Fair Market Value Policy. A review of the evaluation may be conducted by the CFO and Legal Services to assess whether the appraisal is based on valid valuation methodologies and whether the assumptions used in such evaluations are reasonable, given the facts and circumstances.

- 3. Obtain Legal Review and Approval.** No agreement shall be executed until the Hospital's Legal Services Department has reviewed and approved the proposed agreement to ensure compliance with the applicable laws and that all documents relevant to the proposed agreement are set forth in the Contracts Package. Legal Services, at its option, shall either perform the legal work directly or supervise and

review the work of outside law firms in the preparation of definitive agreements. Prior to entering into the acquisition agreement which is a focus arrangement, all elements of the contract package must be completed. The approval process and documentation (shall include all relevant information regarding the practice and physicians, the objectives for acquiring the practice assets, the major deal terms, the appraised fair market value of the practice, and the amount to be offered for it. Legal Services shall ensure that all necessary due diligence is finalized prior to closing. All relevant information and findings shall be disclosed to the independent, third-party appraiser for inclusion in its final opinion of fair market value.

All physician practice asset acquisitions shall require the approval of the CFO, President/CEO and if necessary the Board of Directors. Prior to closing any medical practice acquisition, the CFO and/or President/CEO will ensure the following conditions are met:

1. There is a written fair market evaluation for the practice.
2. There is a disclosure of other financial arrangements, oral or written, with the practice or any of its physicians (or his or her family members).
3. The aggregate amount paid for its assets is consistent with and does not exceed fair market value for the practice acquired as established by the independent, third-party evaluation and was not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the practice or any of its physicians.
4. No portion of the purchase price is being offered or paid with the intention to directly or indirectly induce referrals to the Hospital.
5. The purchase agreement is commercially reasonable, even if no referrals were made to the Hospital

4. **Post Closing Adjustments**

Adjustments to the terms of the sale may be made after closing if the revised terms are: (1) commercially reasonable; (2) not dependent on and do not take into account (directly or indirectly) the volume or value of referrals or other business generated by the referring physician; and (3) approved by Legal Services.

ENFORCEMENT:

1. Failure to adhere to the terms of this policy will be referred to the Hospital's Compliance Officer or his designee, the Legal Services Department and/or the appropriate administrator and shall result in appropriate human resources action up to and including termination.
2. Failure to adhere to the terms of this policy will also be a factor in determining individual performance evaluations.

TOMBALL REGIONAL HOSPITAL
SUBJECT: **MEDICAL PRACTICE ASSET ACQUISITION**
IMPLEMENTED: 07/09
REVIEWED:
REVISED: 03/10

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EXPIRES: 03/13
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MEDICAL PRACTICE ASSET ACQUISITION

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