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Sponsor:	Brian Kozik: SVP, COMPLIANCE & PRIVACY
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GA-004-441 Physician and Non-Physician Financial Arrangement Review, Approval, Tracking and Monitoring

I. Purpose

This policy establishes administrative principles, guidelines, review processes, and approvals that must be followed before Broward Health enters into a Referral Source Arrangement.

II. Key Terms

For purposes of this Policy, the below terms shall have the meanings set forth below wherever they appear in this Policy, regardless of whether they are capitalized, unless: The context in which they are used clearly requires a different meaning; or A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

Arrangement: An arrangement is any business or other relationship between Broward Health and another person or entity.

Commercial Reasonableness or Commercially Reasonable: The particular lawful arrangement furthers a legitimate business purpose of the parties to the arrangement and is sensible, considering the characteristics of the parties, including their size, type, scope, and specialty. An arrangement may be Commercially Reasonable even if it does not result in profit for one or more of the parties.

Contracts Management System means Broward Health's electronic contracting system that serves as the centralized repository for all Broward Health Contracts and which contains all Contract reviews, approvals, and supporting documentation.

Covered Persons: All owners, officers, directors, commissioners, employees, contractors, subcontractors, agents, and other persons who provide patient care items or services or who perform billing or coding functions on behalf of Broward Health (excluding vendors whose sole connection to Broward Health is selling or otherwise providing medical supplies or equipment to Broward Health and who do not bill Federal or State Health Care Programs for such medical supplies or equipment), and all physicians and other non-physician practitioners who are members of Broward Health's active medical staff. This term does not include part-time or per diem employees, contractors, subcontractors, agents, or other persons who are not reasonably expected to work more than 160 hours during each one-year

period, except that any such individuals shall become Covered Persons at the point when they work more than 160 hours during each one-year period.

Fair Market Value or FMV: Fair Market Value means: (1) General. The value in an arm's-length transaction, consistent with the General Market Value of the subject transaction.(2) Rental of Equipment. With respect to the rental of equipment, the value in an arm's-length transaction of rental property for general commercial purposes (not taking into account its intended use), consistent with the General Market Value of the subject transaction. (3)Rental of Office Space. With respect to the rental of office space, the value in an arm's-length transaction of rental property for general commercial purposes (not taking into account its intended use), without adjustment to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee, and consistent with the General Market Value of the subject transaction.

General Market Value: General Market Value means: (1) Assets. With respect to the purchase of an asset, the price that an asset would bring on the date of acquisition of the asset as the result of *bona fide* bargaining between a well-informed buyer and seller that are not otherwise in a position to generate business for each other. (2) Compensation. With respect to compensation for services, the compensation that would be paid at the time the parties enter into the service arrangement as the result of bona fide bargaining between well-informed parties that are not otherwise in a position to generate business for each other.(3) Rental of Equipment or Office Space. With respect to the rental of equipment or the rental of office space, the price that rental property would bring at the time the parties enter into the rental arrangement as the result of bona fide bargaining between a well-informed lessor and lessee that are not otherwise in a position to generate business for each other

Referral Source: A physician or physician's immediate family member or person, or entity that is an actual source or recipient of healthcare business or referrals to or from Broward Health.

Referral Source Arrangement: Every Arrangement that is between Broward Health and a Referral Source

Remuneration: Anything of value, including, but not limited to, cash, items, or services.

Tracking Remuneration: The process of monitoring internal controls developed to verify all Remuneration made to Referral Sources are in accordance with the terms of the agreement. Whenever the terms physician, physician's immediate family member, and/or referral are used in this Policy they shall have the same meaning as ascribed to them under 42 C.F.R. § 411.351 and 42 U.S.C. § 1395nn.

III. Policy

All Referral Source Arrangements shall comply with the Stark Law, the Anti-Kickback Statute and any other applicable federal and state laws or regulations. Referral Source Arrangements must be entered into only where they are objectively determined to be Commercially Reasonable and consistent with Fair Market Value, as required under *Fair Market Valuation and Commercial Reasonableness Policy, Policy No. GA-004-410*.

IV. Procedures

A. **Referral Source Arrangement Determination** – All Arrangements Broward Health intends to enter

into must be reviewed by the Corporate Compliance Department to determine if the person or entity meets the definition of a Referral Source Arrangement and/or Covered Person. This process of determination is outlined in Referral Source Arrangement Review Standard Operating Procedure, Policy No. GA-004-441-001.

- B. **Centralized Tracking System** – All Referral Source Arrangements must be created and maintained in the Contracts Management System for all existing and new or renewed Referral Source Arrangements.
- C. **Referral Source Arrangement Requirements** – In the event a person or entity is determined to be a Referral Source, Broward Health must comply with the following requirements before entering into a Referral Source Arrangement:
 - 1. Ensure that each Referral Source Arrangement is set forth in a writing and such writing is signed by Broward Health and the other parties to the Referral Source Arrangement ("Written Agreement");
 - 2. The business rationale of the Referral Source Arrangement and the Fair Market Value of the remuneration specified in the Referral Source Arrangement must be properly documented within the Contracts Management System;
 - 3. The Referral Source Arrangement must be reviewed by the Office of the General Counsel to determine that the fair market value is properly documented and that the Referral Source Arrangement does not violate the Anti-Kickback Statute or the Stark Law, unless the specific type of Referral Source Arrangement has been exempted from legal review by the Office of the General Counsel;
 - 4. Include in the written agreement a certification by the parties to the Referral Source Arrangement that the parties shall not violate the Anti-Kickback Statute or the Stark Law with respect to the performance of the Arrangement; and
 - 5. Access to a copy of Broward Health's Code of Conduct and Policies and Procedures pertaining to the Stark Law and Anti-Kickback Statute must be provided to all parties to the Referral Source Arrangement.Notwithstanding the foregoing, exceptions to one (1) or all of the requirements above may be made (to the extent such exception is permitted under state and federal law) by the Office of the General Counsel and the Corporate Compliance and Ethics Department.
- D. **Tracking Remuneration** Broward Health has a process to ensure all remuneration to Referral Source Arrangements is consistent with the terms of the agreement. The Tracking and Monitoring Activities Policy, Policy No. GA-004-443 outlines how Broward Health will:
 - 1. Track remuneration to and from all parties to Referral Source Arrangements;
 - 2. Track service and activity logs to ensure that parties to the Referral Source Arrangement are performing the services required under the applicable Referral Source Arrangement(s) (if applicable); and
 - 3. Monitor the use of leased space, medical supplies, medical devices, equipment, or other patient care items to ensure that such use is consistent with the terms of the applicable Referral Source Arrangement(s) (if applicable).

V. Auditing and Monitoring

- A. **Corporate Compliance Department:** With regard to Referral Source Arrangements, the Corporate Compliance Department shall be responsible for reviewing the contract database, the internal review

and approval process, and other Referral Source Arrangement procedures, on at least an annual basis. .

VI. Related Policies and Standard Operation Procedures

- A. [Broward Health Code of Conduct](#)
- B. [GA-004-500 Call Coverage Policy](#)
- C. [GA-004-345 Compliance Audit and Monitoring](#)
- D. [GA-004-007 Compliance with Federal Anti-Kickback Statute and Stark Law](#)
- E. [GA-001-015 Conflict of Interest](#)
- F. [GA-004-417 Disclosure of Physician Ownership and Financial Arrangements](#)
- G. [GA-001-400 Electronic Signature](#)
- H. [GA-004-410 Fair Market Valuation and Commercial Reasonableness](#)
 - I. [GA-004-013 Medical Director/ Program Director Arrangements](#)
- J. [GA-016-006 Physician Recruiting Agreements.](#)
- K. [GA-004-442 Referral Source Contracting Requirements](#)
- L. [GA-001-020 Review, Approval, and Administration of Contracts](#)
- M. [GA-004-443 Tracking and Monitoring Activities](#)
- N. [GA-510-001 racking and Monitoring of Medical Office Buildings and Lease Agreements](#)
- O. [SOP-COR-CCE-03 Final Compliance Review](#)
- P. [SOP-COR-CCE-04 Referral Source Arrangement Review](#)

VII. References

Stark Law, 42 U.S.C. § 1395nn, and implementing regulations
Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b), and implementing regulations

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
Final Approver	Brian Kozik: SVP, COMPLIANCE & PRIVACY	11/2021
	Lucia Pizano-Urbina: AVP, COMPLIANCE [LH]	11/2021