

# TRINITY HEALTH

<b>SYSTEM POLICY NUMBER: 8-02.1</b>		<b>SUBJECT:</b> Hospital/Physician Relationships
<b>EFFECTIVE DATE:</b> November 30, 2004		<b>CATEGORY:</b> Administrative Policy
<b>RESPONSIBLE DEPARTMENTS:</b> Organizational Integrity & Audit Services/ Legal Services		
<b>PURPOSE:</b>	To ensure compliance with the various laws restricting arrangements between hospitals and physicians or other providers who are in a position to refer business to each other.	
<b>POLICY:</b>	It is the policy of Trinity Health and each of its MOs to follow system-wide procedures that satisfy five elements for review, approval and documentation of each relationship between a hospital and physician or other provider who is in a position to refer business that is reimbursable by Medicare or Medicaid that will ensure compliance with applicable laws. (In this policy such physicians and other providers are referred to collectively herein as “physicians”.)	
<b>PROCEDURE:</b>	<p><b>General Requirements:</b></p> <p>For purposes of this policy, the phrase “financial relationship” means any relationship in which money or any other thing of value (services, goods, etc.) is given to another party for any reason. The policy covers any exchange involving goods, services, lease of space, etc. Such relationships include, for example, employment, medical director arrangements, consulting services, leases or permitted uses of real or personal property, or sales including sales or exchanges of real or personal property. The intent of this policy is to be as broad as possible, and the policy may not be avoided by failing to reduce the relationship to written form.</p> <p>The MO's Chief Executive Officer, working with the Local Integrity Officer, are responsible for ensuring that system-wide procedures have been established as required by this policy.</p> <p>Every financial relationship between Trinity Health or any of its MOs and a physician must satisfy five elements:</p> <p>1. <u>Board Approval:</u></p> <p>Every relationship must be reviewed and approved by the applicable Board of Directors/Trustees (Board), or a delegated committee of the Board of Directors/Trustees (Board committee), prior to execution of the written agreement and implementation of</p>	

the relationship. The Board/Board committee may pre-approve a limited number of agreements, provided the agreement includes a provision for termination in the event that the Board does not confirm the agreement. The Board/Board Committee must approve specific parameters for pre-approved agreements annually. The details of each agreement (name, specialty, qualifications, etc) entered into based on pre-approved Board/Board Committee parameters must be reported to and confirmed by the Board/Board Committee at the next meeting following the execution of the agreement.

Pre-approval is permitted only for the following limited agreements:

- Honorarium payments of less than \$5,000 per annum
- Part-time medical director agreements with payment at or below the 50<sup>th</sup> percentile of national survey averages for medical directors pro-rated for the hours of work
- Transactions using forms of agreement pre-approved by the Board/Board Committee with payments within a fair market value range approved by the Board/Board Committee and less than the 75<sup>th</sup> percentile of national survey averages for the specialty
- The Board/Board Committee range approval must include criteria for payments in excess of the 50<sup>th</sup> percentile and up to the 75<sup>th</sup> percentile, such as years of experience, additional fellowship time, specialty training or recruiting difficulties.
- Lease arrangements (e.g. space or equipment) where fair market value has been established based on appropriate independent surveys (e.g. commercial real estate), and rates have previously been presented to the Board/Board Committee for approval.

Pre-approval is not permitted for any other agreements or transactions including without limitation:

- Recruiting
- Exclusive contracts
- Time share arrangements
- Any agreement or transaction not listed above

The following four additional requirements apply to all transactions – approved and pre-approved:

2. Written Agreement:

The organization executive responsible for initiation and

	<p>development of the financial relationship with a physician is also responsible for ensuring the documentation of the relationship in writing signed by all parties.</p> <p>3. <u>Fair Market Value Documentation:</u></p> <p>Prior to review by the Board/Board Committee, the organization executive responsible for the financial relationship will ensure that the MO has followed the processes and collected the documentation supporting the assessment of Fair Market Value (FMV) that are required by the implementing procedures for the Board Policy on Hospital-Physician relationships. Documentation supporting the FMV determination shall be maintained in physician contract files for a minimum of five years after the end of the contract.</p> <p>The FMV documentation must follow the Trinity Health implementing procedures for determining fair market value for hospital-physician relationships. The documentation must support that the compensation or other financial payment to the physician does not exceed FMV for the services to be provided or for the assets being acquired, or for any other transaction occurring between the physician and the organization based on national surveys (compensation) or other independent objective sources (local commercial real estate surveys for office rent), as applicable.</p> <p>4. <u>Health Care Objectives (Mission) Assessment:</u></p> <p>Prior to review by the Board/Board Committee, documentation must be prepared in support of the financial arrangements benefits to the MO in meeting its health care objectives (mission), including:</p> <ul style="list-style-type: none"><li>• A needs assessment demonstrating that the proposed financial relationship between the organization and the physician (a) benefits the community by improving access to quality medical services, (b) furthers the mission of the organization to deliver healthcare services to the medically needy and others within the organization’s integrated delivery network, or (c) improves an area of service within the medical staff of the hospital with which the organization is affiliated; and</li><li>• For all recruitment arrangements, documentation supporting a demonstrable community need for the physician evidenced by data prepared by the federal or state</li></ul>
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government or by other independent, objective third parties.

5. Legal Review:

Prior to review by the Board/Board Committee, documentation supporting legal counsel review of the proposed financial arrangement must be obtained as follows:

- A written legal review by the Trinity Health Office of General Counsel, local in-house counsel or by external counsel selected and approved by the Trinity Health Office of General Counsel stating that the proposed financial relationship satisfies the policies of Trinity Health and identifying the Stark exceptions relied upon for compliance with Stark. As an alternative, if the relationship does not comply fully with the policy, a legal opinion is required that states that, although the relationship does not satisfy such policies, the relationship does not otherwise violate any applicable law.
- Written evidence of review by counsel shall be attached to the contracts in the files of the organization and maintained permanently thereafter.

**Compliance Responsibility:**

The MO Chief Executive Officer, working with the Local Integrity Officer, is ultimately responsible for ensuring that procedures have been established within the organization to effectively comply with the requirements of this policy.

**General Rules:**

The following general rules apply to all financial relationships between the organization and physicians:

- All financial relationships with physicians shall be reported on Form W-2 or Form 1099 as required by applicable tax law and regulations.
- All financial relationships (including one-time relationships such as speaking or meeting attendance honorariums) with physicians shall be memorialized in writing and signed by both parties, and no financial relationships shall be offered, provided or honored based only upon an oral promise.
- Any “form” contracts or templates relating to the compensation of physicians by the organization must also

	<p>be reviewed and approved by the Trinity Health Office of General Counsel or by outside counsel approved by the Trinity Health Office of General Counsel. Use of a form contract, even if previously approved, does not eliminate the need for the procedures described above, including the review of the specific transaction by the Trinity Health Office of General Counsel or by outside counsel approved by the Trinity Health Office of General Counsel. Such forms or templates shall not be altered in any way without first obtaining the written advice of counsel that such modification is legally permissible.</p> <ul style="list-style-type: none"><li>• The procedures described above shall be followed for every contract renewal. Any automatic renewal shall be limited to a maximum term with automatic renewals of five years. After five years, a new contract is required.</li><li>• Every agreement documenting a financial relationship with a physician shall contain a clause allowing the organization to terminate the agreement and recover from the physician any payment that is determined by a court or government agency to have conferred upon the physician an excess benefit, or to be illegal or inconsistent with the organization's tax-exempt status.</li></ul> <p><b>Recruitment of Physicians to the Medical Staff:</b> Incentives to join the medical staff of the organization may be provided only to a physician who either (i) is a recent graduate of a residency or fellowship program, whether or not in the organization's community, or (ii) has not previously practiced in the organization's community or been affiliated with another hospital serving all or part of the organization's community.</p> <p><b>Impermissible Obligations:</b> Under no circumstances shall the MO compensate a physician based on value or volume of patients admitted or referred to the organization.</p> <p><b>Referral Obligation and Practice Restrictions:</b></p> <ul style="list-style-type: none"><li>• Any provision requiring a physician to admit or refer patients to the organization or hospitals affiliated with the organization must be permitted by all applicable laws and the language must be approved by the Trinity Health Office of General Counsel.</li></ul>
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	<ul style="list-style-type: none"><li>• Any provision restricting the right of a physician to maintain staff privileges at other hospitals or restricting the physician's right to treat patients at or admit patients to hospitals other than the MO or organizations affiliated with the MO must be permitted by all applicable laws and the language must be approved by the Trinity Health Office of General Counsel.</li></ul>
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