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# UHHS P&P

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University Hospitals Health System  
Policy and Procedure Manual

## Medical Director and Other Service Agreements with Physicians

### SCOPE

This Policy applies to University Hospitals Health System, Inc. and all of its wholly-owned entities (collectively, “UHHS”), including all UHHS employees, medical staff members and, where appropriate, others who provide services to UHHS.

### PURPOSE

To ensure that all arrangements between UHHS and non-employed physicians, their immediate family members, and entities controlled by such physicians, for the provision of professional, administrative, consulting and other services are in compliance with all applicable Federal and state laws.

### DEFINITIONS

- I. **Ineligible Person** means a person or entity that: (i) is currently excluded, suspended, debarred or otherwise ineligible to participate in the Federal health care programs; or (ii) has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the Federal health care programs after a period of exclusion, suspension, debarment, or ineligibility; or (iii) is excluded from receiving Federal contracts or subcontracts.
  
- II. **Physician** means a physician or a physician’s immediate family member (i.e., spouse, natural or adoptive parent, child, sibling, step-parent, step-child, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and the spouse of a grandparent or grandchild), or any entity that is controlled by a physician or a physician’s immediate family member.

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- III. **UHHS Authorized Representative** means the person with signing authority for an agreement with a Physician, in accordance with the UHHS policy on Contract Execution (F-24).

## **POLICY**

- I. All arrangements between UHHS and non-employed Physicians who provide professional, administrative, consultation or other services on behalf of UHHS in exchange for compensation will be managed and documented in accordance with this Policy.
- II. This Policy does not apply to arrangements with Physicians employed by UHHS.
- III. Each arrangement covered by this Policy must comply with applicable Federal and state laws, and be documented in a written agreement that:
- (1) Is signed by both parties;
  - (2) Specifies all the services to be provided by the Physician for or on behalf of UHHS, including services under all other arrangements with the Physician by cross-referencing such other arrangements in the agreement;
  - (3) Specifies the time-frame for the arrangement;
  - (4) Specifies the compensation to be paid under the arrangement; and
  - (5) Satisfies all other applicable legal requirements as determined by the UHHS Law Department.
- IV. Financial terms of any arrangement between UHHS and a Physician must be set in advance, must not exceed fair market value, and must not be determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.
- V. Any arrangement covered by this Policy may not be conditioned, directly or indirectly, expressly or implicitly, on any requirement or understanding that any Physician or other health care provider will admit or refer patients to UHHS. Time-based or unit-of-service-based payments are permissible, however, even if the Physician receiving the payment generated the payment through a referral to UHHS, so long as the payment per unit is consistent with fair market value at the inception of the agreement and does not subsequently change during the agreement term in any manner that takes into account the volume or value of referrals or other business generated between the parties.

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- VI. UHHS contracts only for services that are reasonable and necessary and serve a legitimate business purpose of UHHS. UHHS shall not contract for services that (1) regularly accompany the professional services being rendered by the Physician, (2) except for transactions to obtain on-call coverage, are required pursuant to UHHS's medical staff bylaws to be rendered by the Physician without payment, or (3) involve counseling or promoting activities that violate Federal or state law. A UHHS entity may contract for professional services to provide on-call coverage if (i) a UHHS entity would be unable to secure sufficient on-call coverage to full-fill legal and regulatory requirements or ensure the health and safety of UHHS patients absent such arrangement, (ii) the UHHS Law Department approves such arrangement. The UHHS Authorized Representative must document the need for the services being provided under any proposed arrangement with a Physician.
- VII. All arrangements covered by this Policy require the submission by the Physician of contemporaneous time sheets or other supporting documentation to verify the services rendered, and provide that payment of fees under the agreement are contingent upon the submission of such documentation to UHHS.
- VIII. If the term of an agreement is for less than one year or if the agreement is terminated with or without cause prior to the end of the first year of the agreement, UHHS will not enter into a similar contract or a contract for similar services on different terms until after the one year anniversary of the commencement date of the original agreement.
- IX. All documents leading up to, or associated with, a formal, binding agreement with a Physician are subject to this Policy. This includes non-binding letters of intent, letter agreements and memoranda of understanding.
- X. Side agreements or arrangements (whether written or oral) not covered by the primary written agreement are prohibited, unless they are made as a formal amendment or additional agreement reviewed by the UHHS Law Department and signed by both parties.
- XI. UHHS will not enter into an agreement with a Physician who is an Ineligible Person.
- XII. In all arrangements subject to this Policy, payments must be consistent with the terms of the agreement and performance of all of the terms of the agreement is required.

## **PROCEDURE**

- I. The UHHS Authorized Representative or his or her designee completes and forwards the relevant portions of a contracting form provided by the UHHS Law Department or

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provides such information as necessary for the efficient and timely preparation of the agreement by the UHHS Law Department, as soon as a transaction is contemplated.

- II. The UHHS Law Department and Organizational Integrity Department will analyze the proposed arrangement for compliance with all applicable legal requirements. The UHHS Law Department must approve the agreement as to form.
- III. The UHHS Authorized Representative or his or her designee provides information to verify that the arrangement does not exceed the 75<sup>th</sup> percentile compensation amount for physicians in the same medical specialty or sub-specialty as Physician based upon one or more physician compensation surveys issued by nationally recognized independent firms. If this data is not available, compensation exceeds the 75<sup>th</sup> percentile compensation or cannot be verified, the UHHS Authorized Representative or his or her designee must demonstrate that the compensation is consistent with fair market value. This can be done using a variety of methods, including independent third-party appraisals performed by independent appraisers or compensation analysts, reliable and nationally-recognized physician compensation survey data (e.g., comparable or composite data from other similar specialties) and other benchmarks generally acceptable in the health care industry.
- IV. The UHHS Authorized Representative or his or her designee shall not make a commitment (whether written or oral) to any Physician regarding the terms of a proposed arrangement until such terms have been reviewed and approved by the UHHS Law Department.
- V. Arrangements that are not in compliance with this Policy, or that are with a person who is a disqualified person, as defined in 26 C.F.R. § 53.4958-0 et seq., or in a common medical practice with a disqualified person, shall be permitted only upon approval of the Audit and Organizational Integrity Committee of University Hospitals Health System, Inc., pursuant to procedures adopted by such committee.
- VI. If, at any time, it appears that there have been discussions or memoranda indicating an intent to obtain or reward referrals by way of an agreement or arrangement, the agreement or arrangement will not be approved.
- VII. Prior to signing an agreement on behalf of UHHS or presenting the agreement to the Physician for signature, the UHHS Authorized Representative or his or her designee (who shall be at least a Senior Vice President) must certify in writing, on a form provided by the UHHS Law Department, that:

- (1) Except as disclosed or cross-referenced in the agreement, there are no other arrangements, whether oral or written, between UHHS and the Physician;

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- (2) The amount to be paid to the Physician under the proposed arrangement was determined in a manner that is consistent with the fair market value of the items or services to be provided and without regard to the volume or value of any referrals or other business generated by the Physician for UHHS;
- (3) The Physician is not an Ineligible Person;
- (4) The services to be provided by the Physician under the agreement are reasonable and necessary and satisfy a legitimate, commercially reasonable business purpose of UHHS; and
- (5) Any other condition determined by the UHHS Law Department as necessary for the proposed arrangement to satisfy applicable legal requirements.

VIII. Upon receiving the agreement approved as to form from the UHHS Law Department and signing the certification form, the UHHS Authorized Representative may sign the agreement on behalf of UHHS and present the agreement to the Physician for signature.

IX. The UHHS Authorized Representative or his or her designee forwards an original of the signed agreement and certification form and any fair market value analysis to the UHHS Law Department and a copy of the agreement to the UHHS Finance Department, and retains a copy for his or her records.

## SEE ALSO

In the UHHS P&P:  
F-24, Contract Execution  
F-30, Contracts  
HR-8, Background Checks

## REFERENCES

42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952;  
42 U.S.C. § 1395nn; 42 C.F.R. § 411.357;  
26 U.S.C. § 4958; 26 C.F.R. §§ 53.4958-0 – 53.4958-8

# APPROVALS

  
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CHIEF EXECUTIVE OFFICER

4/6/06  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
SENIOR VICE PRESIDENT

4/5/06  
\_\_\_\_\_  
Date