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**Sponsor:** Brian Kozik: SVP, COMPLIANCE & PRIVACY  
**Section:** GA-Corporate Compliance  
**Manuals:**

## GA-004-442 Referral Source Contracting Requirements

### I. Purpose

This policy establishes the process for reviewing all Referral Source agreement to verify compliance with the requirements of Physician and Non-Physician Financial Arrangement Review Approval Tracking and Monitoring, Policy No. GA-004-441.

### II. Key Terms

**Referral Source:** A Physician, Contractor, or, Entity that is an actual source of healthcare business or referrals to Broward Health.

*Any terms not defined herein shall have the meaning associated to them within the Policies and Procedures Glossary, Policy No. GA-004-237.*

### III. Policy

All Referral Source agreements must comply with applicable state and federal laws and regulations, including, without limitation, the Stark Law, 42 U.S.C. § 1395nn, the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b, and the Florida Patient Brokering Act, Fla. Stat. § 817.505 (collectively, the "Self-Referral Laws").

### IV. Procedures

- A. Broward Health shall not enter into a written agreement with a Referral Source unless it demonstrates and documents the Referral Source's qualifications. To demonstrate the Referral Source's qualifications, Broward Health shall:
  1. Verify that the Referral Source is qualified to, capable of, and not restricted from, furnishing the services or items;
  2. Verify that the Referral Source is not excluded from any federal or state health care program in accordance with Sanction Screening, Policy No. GA-004-290; and
  3. Verify and obtain a copy of any licensure or accreditation required by law to be held by the

Referral Source for its furnishing of the services or items.

- B. Every Referral Source seeking to enter into an agreement with Broward Health must first complete a Conflict of Interest Form (see Conflict of Interest Policy, Policy No. GA-001-015) and Physician Ownership & Financial Arrangements (see Disclosure of Physician Ownership & Financial Arrangements Policy, Policy No. GA-004-417). If any disclosures are made on one, or both forms, the Corporate Compliance & Ethics Department, in collaboration with interested stakeholders, must review and approve the disclosures prior to entering into an agreement. Any conflicts or concerns from the Referral Source's disclosures must be addressed and referenced in the agreement, as appropriate. If a Referral Source refuses to complete the forms, those refusals will be reviewed by the Corporate Compliance & Ethics Department's designated staff and a determination will be documented in the Contract Management System.
- C. Broward Health may not enter into an agreement with a Referral Source unless it has objectively determined and documented that the remuneration being offered to the Referral Source is consistent with Fair Market Value and Commercially Reasonable. The process for obtaining objective Fair Market Value data shall be in accordance with Fair Market Valuation and Commercial Reasonableness Policy, Policy No. GA-004-410.
- D. Each agreement must contain a clause that Referral Source agrees that Referral Source will not receive compensation for services that are provided prior to the execution of the agreement by all parties.
- E. The agreement must include a clause that each party to the agreement who meets the definition of a Covered Person, must complete at least one hour of training regarding the Anti-Kickback Statute, the Stark Law and examples of arrangements that potentially implicate the Anti-Kickback Statute or the Stark Law. In addition, the agreement must include a certification by the parties that they will not violate the Anti-Kickback Statute or the Stark Law with respect to their performance of the agreement. Additionally, Broward Health shall provide each party to the agreement with a copy of the Broward Health Code of Conduct, the Stark Law and Anti-Kickback Statute Policies and Procedures. The Referral Source must acknowledge receipt of this information, and the acknowledgement should be added to the agreement file in the Contract Management System.
- F. Compensation under an agreement with a Referral Source cannot be revised or modified during the first twelve (12) months of the term of the agreement unless approved in writing by the General Counsel's Office. Unless otherwise permitted by applicable law, changes to compensation must be evidenced by a written amendment to the agreement, signed by both parties before the change in compensation takes effect. The compensation cannot be changed for twelve (12) months after the effective date of such amendment unless approved in writing by the General Counsel's Office.
- G. Agreements with physicians with compensation above the 75th percentile (as determined by the parameters set forth in Fair Market Valuation and Commercial Reasonableness, Policy No. GA-004-410) require approval by the Board, provided, however, that renewals of, or amendments to, agreements which have been approved by the Board within the last four years do not require subsequent Board approval if the compensation remains at the same percentile or is at a lower percentile than that which the Board already approved.
  - 1. For call coverage agreements, if the Board approves the compensation for a given specialty at one of the hospitals, any agreements for that same specialty at that same hospital, can be entered without being presented to the Board again so long within the four-year approval period.
  - 2. Broward Health may enter into agreements for physician services where the compensation is

equal to or above the 75th percentile without prior Board approval if (i) there are exigent circumstances affecting the delivery of patient care; (ii) the agreement has gone through the Contract Management System process and received required approvals; and (iii) a supporting memorandum is approved by the System CEO, the General Counsel, and the Chief Compliance Officer. The agreement should be presented to the Board at the next scheduled meeting or as soon as practical.

- H. Payments may not be made to a Referral Source unless there is adherence with all of the requirements of this Policy and Physician and Non-Physician Financial Arrangement Review Approval Tracking and Monitoring, Policy No. GA-004-441 unless approved in advance by Senior Management, the Corporate Compliance Department, and the General Counsel's Office.
- I. Renewals (including auto-renewals) or amendments of Agreements are permitted only through a review of the entire arrangement in accordance with this Policy and Physician and Non-Physician Financial Arrangement Review Approval Tracking and Monitoring, Policy No. GA-004-441.

#### V. Related Policies and Compliance Documents

- Broward Health Code of Conduct
- Compliance with Federal Anti-Kickback Statute and Stark Law, Policy No. GA-004-007
- Conflict of Interest Policy, Policy No. GA-001-015
- Disclosure of Physician Ownership and Financial Arrangements Policy, Policy No. GA-004-417
- Fair Market Valuation and Commercial Reasonableness Policy, Policy No. GA-004-410
- Physician and Non-Physician Financial Arrangement Review Approval Tracking and Monitoring, Policy No. GA-004-441
- Review, Approval, and Administration of Contracts, Policy No. GA-001-020
- Sanction Screening, Policy No. GA-004-290

#### VI. References

Stark Law, 42 U.S.C. § 1395nn, and implementing regulations

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

Florida Patient Brokering Act, Fla. Stat. § 817.505

## Attachments

No Attachments

## Approval Signatures

Step Description	Approver	Date
Final Approver	Brian Kozik: SVP, COMPLIANCE & PRIVACY	08/2020

Step Description	Approver	Date
	Jennifer Mosley: EXEC SECRETARY/ANALYST	08/2020