HALIFAX HEALTH

Policy Title: COM-S-LL-010 General Policy Statement and Standards on Prohibition on Self-Referrals, Kickbacks and Inducements to Refer		
Department: Corporate Compliance		**TJC Chapter(s):** LD
Title of Policy Owner: Deputy Chief Compliance Officer		**Approved by:** VP & Chief Compliance Officer
Effective Date: 4/1/14	**Reviewed Date:** 4/14; 5/14; 6/15; 11/16; 10/17	**Revised Date:** 06/29/15; 11/02/16; 10/10/17

I. PURPOSE:

The purpose of this policy is to articulate Halifax Health's prohibition on the following as restricted by law.

II. SCOPE:

This policy is applicable to all Halifax Health entities.

III. DEFINITIONS:

"Immediate family member" includes spouse; natural 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 the spouse of a grandparent or grandchild.

"Financial source arrangement" or "Arrangement" means any offer, acceptance, or exchange of anything of value whether money or in-kind between Halifax and a party in a position to refer business to Halifax or to which Halifax patients may be referred. Most arrangements fitting this definition will also be considered a "focus arrangement" under the Corporate Integrity Agreement ("CIA") entered into 3/10/2014 with the HHS Office of Inspector General, thus triggering the corporate integrity obligations summarized below.

IV. POLICY:

Halifax Health will not enter into any arrangement, nor offer, accept or provide anything of value from/to a source of referrals, or an entity to which Halifax patients are referred, unless such arrangement is in compliance with all applicable laws, regulations, and Halifax's policies and standards. All such arrangements must be approved the Office of General Counsel and other reviews as in effect at the time of the initiation of the arrangement. Arrangements of any type may only be executed as provided by approval policies in force at the time of the initiation of the arrangement.

Halifax Health shall not knowingly submit a claim for payment by the Medicare or Medicaid programs for services ordered or referred by a physician with whom Halifax has actual knowledge that the financial relationship between the physician and Halifax does not comply with applicable laws and regulations.

No payment shall be made pursuant to an agreement until the agreement has passed all required reviews and has been executed by authorized representatives of both parties.

V. PROCEDURE:

A. General Requirements for Referral Source Financial Arrangements

Arrangements with referral sources, generally:

1. Must be in writing and signed by the parties before any remuneration can be paid;
2. Must specify the services covered;

3. Specify the timeframe for the arrangement;
4. Describe how the party will be compensated in a way that is ascertainable from reading the contract (for example, $10 per hour);
5. Unless an exception applies, must be for a year or more;
    a. If the agreement is terminated prior to the end of the first year, the parties shall not enter into an agreement for the same or similar services until the end of the first year;
6. Be consistent with fair market value, for services or items actually provided without taking into account the value or volume of referrals or other business generated by the other party; and
7. Must be "commercially reasonable", intended to obtain or provide an item or service that is reasonable and necessary for a legitimate business purpose, without regard to referrals generated between the parties.
8. Additional legal requirements may apply depending on the nature of the relationship. Review the proposed arrangement with Halifax Health's Office of General Counsel before the commencement of negotiations.
    a. If external counsel is needed, Halifax Health's Office of General Counsel will initiate and manage the project.
9. Medical staff incidental benefits and certain physician non-monetary compensation is subject to an annual or per occurrence dollar limits as published by the Centers for Medicare and Medicaid Services ("CMS").
    a. Team Members may pay minor, infrequent items such as meals or golf for physicians (or the physician's immediate family members) on behalf of Halifax Health. These items shall not exceed the annual limit per physician and shall be reported in the Non Monetary Compensation System located on Pulse at: http://pulsewebs.halifaxhealth.org/NonMonetary/Login.aspx?ReturnUrl=/NonMonetary/
10. Holdovers must meet the requirements of applicable laws and regulations and require prior approval by the Office of General Counsel and the Physician Arrangements Review Committee ("PARC").

B. Corporate Integrity Requirements Relating to Arrangements

The CIA includes requirements that are specific to financial arrangements with referral sources:

1. Halifax must provide the following training:
    a. Annually, a minimum of 2 hours of Arrangements and an additional hour of General training for workforce members and agents who are involved in the development, approval, management, or review of Halifax's Arrangements;
    b. Minimum of 2 hours of Arrangements training for each member of the Board of Commissioners;
    c. Minimum of 1 hour of Arrangements training to any member of the active medical staff who is a party to a Focus Arrangement (as defined by the CIA).
2. Focus Arrangements Tracking System:
    a. Create and maintain a centralized tracking system for all existing and new or renewed Arrangements (Arrangements Tracking System);
    b. Track remuneration to and from all parties to Arrangements;
    c. Track service and activity logs to ensure that parties to an Arrangement are performing the services required under the applicable Arrangement(s);
    d. 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 Arrangement(s) (if applicable);
    e. Maintain written review and approval process for Arrangements to ensure that all new and existing or renewed Arrangements do not violate the Anti-Kickback Statute and Stark Law, including:

i) review of all Arrangements by legal counsel with expertise in the Anti-Kickback Statute and Stark Law; and,

ii) process for specifying the business need or business rationale for all Arrangements, and a process for determining and documenting the fair market value of the remuneration specified in the Arrangement.

f. Annually, the Compliance Officer shall review the Arrangements Tracking System, internal review and approval process, and other Arrangements procedures and opine as to the completeness and accuracy of the Focus Arrangements Tracking System; and

g. Implement effective responses when suspected violations of the Anti-Kickback Statute and Stark Law are discovered, including disclosing the issues to the appropriate authorities and quantifying and repaying overpayments received from government health programs, when appropriate.

3. Any new or renewed Focus Arrangement must:

   a. Be set forth in writing and signed by an authorized Halifax official and the other parties to the Arrangement;

   b. Include in the written agreement a requirement that each party to the Arrangement shall complete the training in the Stark Law and Federal Anti-kickback Statute;

   c. State that Halifax will provide each party to the Arrangement with a copy of its Code of Conduct and Stark Law and Anti-kickback Statute Policies and Procedures; and

   d. Include in the written agreement a certification by the parties to the Arrangement that the parties shall not violate the Anti-Kickback Statute and the Stark Law with respect to the performance of the Arrangement.

4. Retain and make available to the OIG, upon request, the Arrangements Tracking System and all supporting documentation of the Arrangements, to the extent available, all non-privileged communications related to the Arrangements and the actual performance of the duties under the Arrangements.

VI. KEYWORDS:
Referral, Kickback, Anti-Kickback, Stark, Focus, Arrangement

VII. REFERENCES:

Halifax/OIG Corporate Integrity Agreement executed 3/10/2014

COM-P-LL-050.00 Contract Management

COM-S-LL-145.00 Fair Market Value Determinations; Commercially Reasonable Standard

Halifax Health Code of Conduct

VIII. REVISION HISTORY:

Date	Revision/Review	By
4/25/2014	Created as overarching policy for dissemination to counterparties to Halifax arrangements and incorporating all other arrangements policies by reference.	G.Rousis
5/12/2014	Added definitions of arrangements and focus arrangements from CIA as Exhibit for reference purposes; added SLA/OVP responsibility to recognize an arrangement as within the scope of corporate integrity obligations.	G.Rousis
6/29/2015	Revisions to simplify language and separate procedural items from policy items.	C.Stedman
11/02/2016	Added additional information about non-monetary compensation, including a link to the non-monetary compensation report database	C. Kowatch

Date	Revision/Review	By
10/10/2017	Reviewed; placed into new Halifax policy template; no substantive changes (minor clarification of training related to section V(B)(1))	C. Kowatch