



<b>DEPARTMENT:</b> Legal	<b>POLICY DESCRIPTION:</b> Marketing Activities Involving Physicians
<b>PAGE:</b> 1 of 4	<b>REPLACES POLICY DATED:</b> 9/15/98, 9/1/00, 6/1/02 (CO.001), 3/1/06, 5/1/06, 11/15/06, 5/1/07; 3/15/08; 6/1/09
<b>EFFECTIVE DATE:</b> June 1, 2023	<b>REFERENCE NUMBER:</b> LL.023
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

**SCOPE:** This Policy applies to HCA Holdings, Inc. (the “Company”) and all of its Affiliates operating in the United States (HCA Healthcare Affiliates).

*Other capitalized terms used in this Policy and not otherwise defined have the meaning given to them below in the Definitions section.*

**PURPOSE:** To establish requirements and guidelines for Marketing Activities related to Independent Physicians and their practices, as well as Employed or Engaged Physicians and their practices, as defined below and consistent with applicable law.

The Anti-Kickback Statute (AKS) prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, in cash or kind, to induce or reward either the referral or the purchase, order or recommendation of any good or service for which payment may be made under a federal healthcare program (such as Medicare and Medicaid). In addition, the Physician Self-Referral Law (Stark Law) prohibits a Physician from making a referral for certain designated health services, such as inpatient or outpatient hospital services, payable by Medicare to an entity with which the Physician (or an Immediate Family Member of the Physician) has a financial relationship unless all requirements of an applicable exception are satisfied. For example, the Medical Staff Incidental Benefits Exception to the Stark Law (42 C.F.R. § 411.357(m)) permits certain forms of low value compensation by a hospital that is incidental to a Physician’s membership on the medical staff, provided that specific regulatory requirements are met.

Both the AKS and the Stark Law are potentially implicated when hospitals and other healthcare facilities conduct Marketing Activities that benefit Physicians or Physician practices. However, Marketing Activities that involve Physicians may be permitted if the activities are structured to satisfy certain requirements to ensure compliance with the AKS and the Stark Law. All HCA Healthcare personnel carrying out Marketing Activities must adhere to these requirements.

**POLICY:**

1. An HCA Healthcare Affiliate may not engage in or pay for a Marketing Activity that identifies, or includes references to, Independent Physicians unless:
  - a. the Marketing Activity is designed to benefit primarily the HCA Healthcare Affiliate or the community (rather than the Independent Physician); the reference to the Independent Physician includes only basic identifying information; and the Marketing Activity does not benefit, more than incidentally, the Independent Physician;



<b>DEPARTMENT:</b> Legal	<b>POLICY DESCRIPTION:</b> Marketing Activities Involving Physicians
<b>PAGE:</b> 2 of 4	<b>REPLACES POLICY DATED:</b> 9/15/98, 9/1/00, 6/1/02 (CO.001), 3/1/06, 5/1/06, 11/15/06, 5/1/07; 3/15/08; 6/1/09
<b>EFFECTIVE DATE:</b> June 1, 2023	<b>REFERENCE NUMBER:</b> LL.023
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

- b. the Independent Physician enters into a written agreement to pay fair market value for the Marketing Activity, including for the proportionate share of the Marketing Activity benefitting the Independent Physician; or
  - c. the Marketing Activity is paid for pursuant to a Physician Recruitment Agreement that complies with HCA Policy LL.003 (Physician Recruiting Agreements) and applicable law.
2. In general, a Marketing Activity involving Employed or Engaged Physicians (e.g., PSG Physicians) is permitted, provided that the Marketing Activity relates to and is for the benefit of an HCA Healthcare Affiliate and does not promote any Unrelated Activity of such Physicians.
  3. An HCA Healthcare Affiliate (e.g., an HCA hospital) may also engage in or pay for a Marketing Activity that benefits another wholly-owned HCA Healthcare Affiliate (e.g., an HCA Physician Services Group (PSG) practice); provided that it does not promote any Unrelated Activity of an Employed or Engaged Physician. However, an HCA Healthcare Affiliate may not engage in or pay for a Marketing Activity for an HCA Healthcare Affiliate that is not wholly-owned (e.g., a joint venture), other than as permitted by this Policy or as approved by applicable Operations Counsel.
  4. Any decision to engage in or pay for any Marketing Activity that identifies or references a Physician must not be determined in any manner that takes into account the volume or value of referrals generated or expected from the Physician or the Physician's practice. Generally, all Physicians on medical staff, or all Physicians within the same specialty, should be included or offered similar opportunities for any Marketing Activity involving Independent Physicians.
  5. This Policy applies to all forms of Marketing Activities, as defined below, involving Physicians.

**PROCEDURE:**

All Marketing Activities involving Physicians engaged in or paid for by an HCA Healthcare Affiliate must be done in accordance with this Policy, with reference to, and consistent with, the *Marketing Compliance Toolkit* and/or the appropriate Legal resource, as herein indicated.

Consult with the HCA Corporate Marketing Department, applicable Operations Counsel and the applicable Ethics and Compliance Officer before engaging in or paying for any Marketing Activity involving Physicians. Also, please consult with Operations Counsel before engaging in or paying for Marketing Activities on behalf of a joint venture.

Consistent with this Policy, HCA Healthcare maintains a *Marketing Compliance Toolkit* that provides specific guidance regarding Marketing Activities that may arise across HCA Healthcare Affiliates, including but not limited to:

- Hospital service line marketing



<b>DEPARTMENT:</b> Legal	<b>POLICY DESCRIPTION:</b> Marketing Activities Involving Physicians
<b>PAGE:</b> 3 of 4	<b>REPLACES POLICY DATED:</b> 9/15/98, 9/1/00, 6/1/02 (CO.001), 3/1/06, 5/1/06, 11/15/06, 5/1/07; 3/15/08; 6/1/09
<b>EFFECTIVE DATE:</b> June 1, 2023	<b>REFERENCE NUMBER:</b> LL.023
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

- Medical staff directories and subdirectories
- New Physician announcements
- Educational videos
- Community education events
- Social media activities

**DEFINITIONS:**

The following definitions apply solely for purposes of this Policy and any attachments thereto:

**Affiliate** means any person or entity Controlling, Controlled by or under common Control with another person or entity.

**Control** means the direct or indirect power to govern the management and policies of an entity; or the power or authority through a management agreement or otherwise to approve an entity's transactions (includes **Controlled, Controlling**).

**Employed or Engaged Physician** means any Physician who is: (i) directly employed by an HCA Healthcare Affiliate; or (ii) engaged by an HCA Healthcare Affiliate under a professional services agreement for all, or substantially all, of the professional services of the Physician (or group of Physicians) with such services billed for by the HCA Healthcare Affiliate.

**Immediate Family Member** of a person means that person's husband or wife; birth 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; grandparent's or grandchild's spouse.

**Independent Physician** means a Physician who is not an Employed or Engaged Physician. For purposes of this Policy, the term Independent Physician includes the Independent Physician's practice or group.

**Marketing Activities** include all forms of marketing, advertising and promotion, including print (whether newspaper, magazine, brochures, flyers, mailers, etc.), television, radio, billboard, digital or social media advertising, and community education events, among others.

**Physician** means any person who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or chiropractor, licensed by a jurisdiction within the United States. The term "Physician" includes without limitation any person who is an Immediate Family Member of a person described in the immediately preceding sentence.

**Unrelated Activities** means any activities by an Employed or Engaged Physician that are not performed on behalf of and at the direction of an HCA Healthcare Affiliate.



<b>DEPARTMENT:</b> Legal	<b>POLICY DESCRIPTION:</b> Marketing Activities Involving Physicians
<b>PAGE:</b> 4 of 4	<b>REPLACES POLICY DATED:</b> 9/15/98, 9/1/00, 6/1/02 (CO.001), 3/1/06, 5/1/06, 11/15/06, 5/1/07; 3/15/08; 6/1/09
<b>EFFECTIVE DATE:</b> June 1, 2023	<b>REFERENCE NUMBER:</b> LL.023
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

<b>REFERENCES:</b> 42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952(a)-(v) 42 U.S.C. § 1395nn; 42 C.F.R. § 411.357 General Statement on Agreements with Referral Sources, Approval Process, Policy, <a href="#">LL.001</a> Professional Services Agreements Policy, <a href="#">LL.002</a> Physician Recruiting Agreements Policy, <a href="#">LL.003</a> <i>Marketing Compliance Toolkit</i>
---