

DEPARTMENT: Legal	POLICY DESCRIPTION: Use of Facility-Owned Space by Potential Referral Sources
PAGE: 1 of 5	REPLACES POLICY DATED: 5/1/06, 11/15/06, 5/1/07, 12/1/07
EFFECTIVE DATE: August 1, 2009	REFERENCE NUMBER: LL.024
APPROVED BY: Ethics and Compliance Policy Committee	

SCOPE: All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, home health agencies and physician practices, service centers, outpatient imaging centers, and all Corporate Departments, Divisions, Groups and Markets. The guidance in this policy is limited to requests to use space made by or on behalf of potential referral sources or their immediate family members.

PURPOSE: To establish parameters for allowing a non-employed physician, or immediate family member of a non-employed physician, to use facility space for meetings and gatherings. Physician use of hospital space for patient care services or other clinical services, including those that would otherwise be performed in the physician's office, are outside the scope of this policy.

POLICY: Non-employed physicians, their immediate family members, and health-related 501(c)(3) organizations may use designated spaces on the property of Company-affiliated facilities as a forum only in one of the following three circumstances:

- a. the purpose of the use of the space is to benefit the facility;
- b. the purpose of the use of the space is to benefit a health-related 501(c)(3) organization that is not a potential referral source of Designated Health Services to the facility; or
- c. the physician or physician group pays fair market value for the use of the space.

Under no circumstances may facility space be opened to a physician or physician group as a means of influencing the volume or value of referrals to the facility.

If the use of hospital space is not for patient care services, the square footage used must be carved out of the Medicare cost report for the period in which it was used for other services.

DEFINITIONS:

Non-Employed Physician: For purposes of this policy, a non-employed physician is a physician who is not employed by the HCA-affiliated facility providing the space or by any subsidiary or division of the corporate owner of that facility. In most states, HCA Physician Services practices are generally subsidiaries or divisions of the corporate owner of a facility.

Fair Market Value: For purposes of this policy, the fair market value of facility space is calculated as the value of rental property for general commercial purposes, not taking into account the space's intended use. As such, comparables should not include any rental amount charged between a health care facility and a potential referral source. Instead, facilities should look to local venues which are open to the public for meetings of similar size. The average per square foot charge of the public venues may be applied to the space in the facility with any necessary increase or decrease resulting from consideration of a comparison of the amenities available at the facility and the venues used as comparables.

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PROCEDURE:

Use of Facility Space by Potential Referral Sources. Before it permits use of designated space, including but not limited to meeting rooms, lecture halls, or auditoriums, for a meeting not sponsored by the facility, a Company-affiliated facility should develop a protocol for determining when and how much it will charge for use of the space. Facilities must implement these policies with consistency, ensuring that the use of any facility-owned space is at all times controlled by the facility. A sample facility policy, Schedule and Use of Meeting Space, is attached. Any facility policy should require that a written agreement be signed by both the physician or physician group and the facility CEO or other approved delegate before the space is used or any payments for the space are made. A potential referral source may not use facility space before signing a written agreement, unless approved in advance by Operations Counsel.

Analysis of Purpose. The protocol should consider the purpose of the proposed meeting, which should focus on any of the following three areas.

1. **Facility Focus.** If the purpose of the meeting or event taking place in the facility's space benefits the facility, or further promotes its mission and activities, then the facility does not need to charge for the use of the space or equipment, even if the meeting is led by a physician or physician group. Generally, the facility administration, and not a physician, should propose the event. In all cases, the facility administration must make the final determination whether an event primarily benefits the facility; a physician proposing the event may not participate in this determination. The facility should absorb the cost of any marketing or refreshments for such events.

For example, if the facility plans to open a new wing for patient services, the administration may wish to open a celebratory ribbon-cutting to the public. Facility administration may ask the Chief of Staff to speak at this ceremony. Because this event promotes the facility's new wing to the community, the physician's participation in the event is appropriate.

As another example, if the facility plans to begin providing a new service, the administration may wish to host an information session open to the public. If only two physicians on the medical staff are qualified to provide the service, the facility may request that one or both physicians speak at the event. Because this event promotes the facility's provision of a new service to the community, the physician's participation in the event is appropriate. However the physician's presentation should be limited to information about the service, and should not promote the physician's practice. If despite instructions in accordance with these principles, the physician does promote his/her practice, payment will be required for the value of the venue to the physician for that time.

2. **Health-Related 501(c)(3) Focus.** If, although the request is made by a potential referral source or an immediate family member, the purpose of a meeting is to benefit or otherwise

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promote the work of a health-related 501(c)(3) that is not a potential referral source of Designated Health Services to the facility, and all interested individuals in the community are permitted to participate, regardless of age, race, religion, gender, national origin, or other characteristics that cannot be changed, then the group may use the space, free of charge. The space would have to be carved out of the Medicare cost report submission for the period of use by the health-related 501(c)(3).

For example, a physician may request to use facility space and audio visual equipment on behalf of the local chapter of the American Red Cross to educate the interested audience members about the effects of body tissue donation on the donor and recipient. The American Red Cross may invite the potential referral source to speak at the event. However, as long as the benefit is to the American Red Cross, the facility is not required to charge for the use of the space or the equipment. No Company-affiliated facility should fund an event where any funds will be used to pay a physician, unless the payment is made pursuant to a current, written, valid agreement.

- 3. Physician Private Practice.** If the purpose of the request for the space is for the benefit of a physician or physician group, then the individual or entity organizing the use of the space and receiving the benefit must pay fair market value rental rates for all items and services provided by the facility, including but not limited to space, equipment, set-up and clean-up costs, and any facility staff who assist in the operation of equipment, set-up or cleaning. Physicians may not use hospital space to perform clinical services for non-hospital patients, even if the physicians offer to pay a fair market amount. If the physician or physician group intends to use the facility space for commercial purposes, then the physician or physician group must provide attendees with affirmative statements, in both written and spoken form, that the facility does not endorse any opinions presented in the meeting. Signage to express such disclaimers shall be provided at the expense of the physician or physician group. Whether or not the intended purpose of using the space is commercial, the space used would have to be carved out of the Medicare cost report for the period of use by the physician or physician group.

For example, a meeting of the office staff of several physician offices benefits the physicians' private practices. The costs associated with that meeting should be charged to the physicians' offices in amounts equal to the total cost of the event divided by the proportion of attendees from the individual physician's office. The facility must not absorb the cost of any marketing or refreshments for such an event, even if an employee of the facility attends the event, unless the event meets the description above in number one.

If the meeting space is in a medical office building owned by the facility or an affiliated entity, then the fair market value payment for the physician's meeting may be incorporated into the physician office space rental amount if specifically stated in the office rental agreement. In such cases, the rental value of the meeting space should be pro-rated across all offices in the

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building(s), and the office rental agreement must state a limit on use of the space so that no one physician or physician group monopolizes its use. One suggestion, for example, would be that if there are 20 physician leases in a building owned by the hospital, and one meeting room, the meeting room could be available to each physician office on 18 days of the year. The fair market rental value of the meeting room could be divided across 20 leases. The rental value for 18 days of the year would be added to the rental amount with the stipulation in the lease that the office could only use the meeting room for up to 18 days in a year.

When facility space may be used.

- Each facility should develop a consistent method of determining whether an individual or group may use certain facility space, such that if two or more groups request use of the space for different purposes for the same period of time, an objective decision would be made to determine which group would have priority. The method selected must not take into consideration the volume or value of referrals of a potential referral source to the facility or business generated between the parties.
- Administrators should develop and update a yearly schedule through which individuals or groups may reserve space.
- No single individual or group should have disproportionate use of the space to the exclusion of other individuals or groups who are willing and able to use the space subject to any required fair market value payments.

Meetings Areas in Patient Care Areas

Patient care areas should only be scheduled for other uses if no patient care services would otherwise be provided in that location at the same time. It is imperative to assure that the space is not included in a cost report billed to Medicare or any third party payor during the time it is used for the meeting.

In addition, where the available meeting room space is located in or accessed through patient care areas, the facility must take extra precautions to ensure that meeting attendees and presenters will not be able to access private health information, in accordance with the Patient Privacy policies, HIM.PRI.001 through HIM.PRI.010.

Occasionally, a physician may request to demonstrate a professional technique on a patient to other physicians on the medical staff. In most cases, the consequence of such presentations is an improvement in the quality of care due to increased communication among medical staff members, and the facility would not be required to charge the physician for the space. In some cases, however, the physician promotes the use of a new instrument or device in which he/she has a financial interest. In such cases, the benefit is truly to the physician and the facility must require payment for the space. As such, it is important to review all elements of each request thoroughly before approving the use of the space. In all such cases, patient consent would be required.

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REFERENCES:

42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952(a)-(v); 42 U.S.C. § 1395nn; 60 Fed. Reg. 41914 (Aug. 14, 1995); 63 Fed. Reg. 1659 (Jan. 9, 1998), 69 Fed. Reg. 16141 (July 26, 2004); 72 Fed. Reg. 51012, et. seq. (Sept. 5, 2007)
General Statement on Agreements with Referral Sources, Approval Process, Policy, [LL.001](#)
Professional Services Agreements Policy, [LL.002](#)
Physician Recruiting Agreements Policy, [LL.003](#)
Physician Referral Services Policy, [LL.013](#)
Business Courtesies to Potential Referral Sources Policy, [EC.005](#)

Sample Facility Schedule and Use of Meeting Services

Purpose: To provide guidelines for scheduling of meeting services (rooms, catering and audio-visual services) for facility departments, physicians, physician groups, and health-related 501(c)(3) organizations that are not potential referral sources to the facility.

Policy:

1. Use of meeting services (meeting rooms, catering services and audio-visual equipment) will support the mission and activities of the facility.
2. When an outside organization requests meeting space in the facility, the facility's Administrator will determine whether the organization is a health-related 501(c)(3) that is not a potential referral source and, if he/she determines the organization to be such, must approve the use of the space.
3. On occasion, the facility administration may allow a physician or a physician practice to use space in exchange for a fair market price.
4. All uses of meeting services will be made in compliance with the Use of Facility-Owned Space by Physicians Policy, LL.024.
5. If the use of space is primarily for the benefit of the facility, but the details of the space will be under the control of a potential referral source, the potential referral source agrees to use the space only as directed in accordance with the event benefiting the facility.

Procedure:

Use by Facility Departments

1. The department manager or his/her designee will complete the "In-House Room Scheduling Form."
2. The requestor will fax or send the completed request form to the Administrative Assistant in Food and Nutrition Services ("FANS").
3. The Administrative Assistant in FANS will verify availability and schedule an adequate meeting room, catering services requested, and audio-visual equipment and support if requested. The FANS Administrative Assistant will then send or fax a written confirmation of meeting services requested to the providers within 2 business of the request. Those responsible for organizing the meeting space, catering services and audio-visual equipment will check the confirmation carefully for accuracy, and file the confirmation for later use as needed.
4. Catering requests must be cancelled at least 24 hours in advance to avoid charges.
5. Catering requests for the following must be approved in advance by Senior Management:
 - a. Department Meetings
 - b. Hospital functional team/committee meetings
 - c. Educational classes/programs for staff
 - d. Holiday parties, birthday parties, farewell parties, department celebrations, etc.
6. All requests for audio-visual needs must be submitted on the Room Scheduling Request Form. AV support/assistance will not be provided if needs are not identified at the time of the room request. A facility employee will be responsible for set-up and operation of the facility's equipment.

7. If the requested audio-visual needs or catering are not available at the time requested, the facility shall notify the requestor. The requestor may either decide to proceed on the same day without those items requested, or change the meeting time and day to one where the services are available.
8. Senior Management at the facility reserves the right to reassign a room when needed, with 24 hour notice to the requestor.
9. Rooms should be vacated promptly at the conclusion of the scheduled ending time to allow set-up for the next meeting.

Use by Outside Health-Care Related 501(c)(3) organizations, Physicians and Physician Groups

1. The Requestor will complete a "Room Scheduling Request Form for Use by Non-Hospital Groups," available from the Administrative Assistant in FANS. The Requestor will send or fax the completed form to the Facility Administration at 123-555-1234.
2. All requests for audio-visual needs must be submitted on the Room Scheduling Request Form. Audio-visual support/assistance will not be provided if needs are not identified at the time of the room request. A facility employee will be responsible for set-up and operation of the facility's equipment.
3. If the requested audio-visual needs or catering are not available at the time requested, the facility shall notify the requestor. The requestor may either decide to proceed on the same day without those items requested, or change the meeting time and day to one where the services are available.
4. A member of Senior Management will review all requests. If approved, the Senior Manager will sign the form, assign a room reservation fee (if applicable) on the request form and fax the approved form to FANS. If the request is not approved, the Senior Manager will send a memo to the requestor denying the request.
5. The administrative assistant in FANS will complete the scheduling functions for the meeting space requested.
6. The retail manager will complete the billing information for the services requested. Once the billing information is completed, the FANS Administrative Assistant will fax or send a confirmation sheet to the requestor.
7. Requestor will pay all fees/charges at least 72 hours prior to the meeting date.
 - a. A reservation fee and an audio-visual fee are required for the fair market value of the space by a physician(s), physician group(s) or office staff of the physician groups.
 - b. A catering fee is required of all outside groups receiving catering services.
 - c. Room reservation and catering fees are non-refundable if the meeting is cancelled within 72 hours of the meeting date.
8. Rooms should be vacated promptly at the conclusion of the scheduled ending time to allow set-up for the next meeting.

7. Major cleaning from any damage, if required as a result of the rental, will be charged to the LESSEE.
8. The LESSEE will provide the LESSOR the name of a contact person to be available as liaison between the LESSEE and the LESSOR prior to the date of the event and during the event (set-up and clean-up included).
9. The LESSEE will vacate the premises within sixty minutes of the contractual ending time of the event unless prior arrangement has been made with the LESSOR.
10. LESSEE represents and warrants to LESSOR that LESSEE is not (i) currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) (the "Federal health care programs"); (ii) convicted of a criminal offense related to the provision of health care items or services but has not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; and (iii) under investigation or otherwise aware of any circumstances which may result in LESSEE being excluded from participation in the Federal health care programs. This shall be an ongoing representation and warranty during the term of this Agreement and LESSEE shall immediately notify LESSOR of any change in status of the representation and warranty set forth in this Section. Any breach of this Section shall give LESSOR the right to terminate this Agreement immediately for cause.
11. The terms of the attached document, Facility Meeting Reservations, Terms and Conditions, is hereby incorporated into and made a part of this agreement.
12. This payment is fair market value for the indicated service only and the parties agree and acknowledge that nothing contained in this Agreement shall require LESSEE to refer or admit any patients to, or order any goods or services from, LESSOR. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party will knowingly or intentionally conduct himself/herself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 USC § 1320a-7b).

PER HOSPITAL POLICY LL.001, GENERAL STATEMENTS ON AGREEMENTS WITH REFERRAL SOURCES; APPROVAL PROCESS, ET SEQ., PAYMENTS PURSUANT TO THIS AGREEMENT, IF ANY, WILL BE MADE ONLY FOR SERVICES PERFORMED AFTER THE AGREEMENT HAS BEEN SIGNED BY BOTH THE CONTRACTOR AND THE FACILITY. SERVICES PERFORMED PRIOR TO THIS DATE WILL NOT BE COMPENSATED.

LESSOR:

AGREED TO by (Name and Title): _____ DATE: _____

LESSEE:

AGREED TO by (Name and Title): _____ DATE: _____

**Sample Facility
Facility Meeting Reservations
Terms and Conditions**

Event Name: _____

Organization Name: _____

Date of Event: _____

Thank you for your interest in scheduling a meeting at the Facility. Once your meeting has been scheduled, please contact _____ at 123-555-1234 for any questions or changes to your event.

Charges for use of the Facility's meeting room services are listed below. Fees must be paid in full (Check or Cash Only) at least 72 hours prior to the actual meeting date. Additional fees may be charged if equipment is damaged or if additional services are provided. Room reservation fee and catering charges are non-refundable if any meeting is cancelled within 72 hours of an event.

Item	Charge
Room Reservation Fee (Name of Room)	
Room Clean-Up Fee	
Catering Charges	
Total Audio-Visual Equipment Usage Fee:	
Teleconference \$50/hour	
Internet Access \$25/hour	
Slide Projector \$25/hour	
Portable LCD \$25/hour	
Overhead Projector \$25/hour	

Make check payable to: Facility

I agree to the terms and conditions listed above.

Requestor's Signature: _____

Date: _____

Payment Received By: _____

Date: _____

Check # _____