General Statement on Agreements with Referral Sources

ROWAN UNIVERSITY POLICY

Title: General Statement on Agreements with Referral Sources
Subject: Office of Compliance & Corporate Integrity (OCCI)
Policy No: OCCI:2013:C04
Applies: RowanSOM
Issuing Authority: President
Responsible Officer: Chief Audit, Compliance & Privacy Officer
Adopted: 07/01/2013
Last Revision: 01/26/2021
Last Reviewed: 01/26/2021

I. PURPOSE

To provide guidance as to Rowan University's School of Medicine (RowanSOM) policy on the entering into financial arrangements with physicians and other potential referral sources, as defined below, and to ensure compliance with Stark Law, the Federal Anti-kickback statute and with the regulations, directives and guidance related to those statutes.

II. ACCOUNTABILITY

Under the direction of the President, Senior Vice President for Medical Initiatives and Affiliated Campuses, Senior Vice President and General Counsel, and the Chief Audit, Compliance & Privacy Officer shall ensure compliance with this policy. The Dean, Associate Deans, Clinical Chairs and Executive Director shall implement this policy.

III. APPLICABILITY

This policy applies to all RowanSOM operating units, including but not limited to hospitals, physician practices, and outpatient centers. The policy applies to any agreement or financial relationship involving, i) a physician or, as set forth below, a non-physician referral source, or ii) a physician's immediate family members (herein and in this policy, all may be referred to as "Referral Sources").

IV. DEFINITIONS

1. *Approving Authority:* For purposes of this policy, the approving authority for an operating unit is the president of the unit or the dean of the school.
2. Immediate family members: Is defined by law as 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.
3. *Physician:* A doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.
4. *Potential Referral Sources:* Physicians, hospitals, long-term acute care centers, nursing homes, clinics, physician group practices, therapists and other individuals and entities who are in a position to influence referrals.
5. *Subject Agreements and Financial Relationships:* Subject Agreements and Financial Relationships include, but are not limited to, physician recruiting agreements, management services agreements, professional service agreements, employment agreements, other agreements for the provision of services or supplies (whether medically related or not), and medical office building leases, leases of equipment and staff.

V. REFERENCES

1. 42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952(a)-(v); 42 U.S.C. § 1395nn; 42 C. F. R. § 411.350 et. seq.;
2. 60 Fed. Reg. 41914 (Aug. 14, 1995); 63 Fed. Reg. 1659 (Jan. 9, 1998);
3. 66 Fed. Reg. 856 (Jan. 4 2001); 69 Fed. Reg. 16054 (March 26, 2004); Voluntary Compliance Plan effective September 26, 2014.

VI. POLICY

RowanSOM will from time to time promulgate various policies as to financial relationships between RowanSOM Operating Units and (i) physicians and (ii) other potential referral sources. Compliance with the policies is required in all contracts with physicians and other referral sources.

1. Requirements:
    a. In general, in compliance with 42 U.S.C. § 1395nn, commonly known as “the Stark Law,” and 42 U.S.C. §1320(a)-7b (b), commonly known as the Anti-kickback Statute, and with statutory exceptions and safe harbors, an agreement with a Referral Source must:
        i. be in writing, signed by the parties and must specify the services covered;
        ii. specify the timeframe for the arrangement, the term of which must not be for less than one year;
        iii. specify the consideration (i.e., rent, purchase price, compensation) and set the consideration in advance (with the exception of employment agreements), consistent with fair market value (refer to policy on Fair Market Valuations) for services or items actually provided without taking into account the value or volume of referrals or other business generated by the Referral Source; and
        iv. be intended to obtain or provide an item or service that is reasonable and necessary for a legitimate business purpose.
    b. Depending on the nature of the Subject Agreement (i.e., lease of space, professional services agreement, affiliation agreement), additional regulatory requirements may apply in order to fulfill the provisions of applicable legal exceptions or safe harbors. To the extent the Subject Agreement is a Focus Arrangement, as such is defined under the Voluntary Compliance Plan dated September 26. 2014, the Focus Arrangements Database policy and Focus Arrangements Approval Procedure apply and must be followed.
    c. Other forms of agreements, such as "letters of intent," "letter agreements," or "memoranda of understanding" are subject to this policy. Individuals working within RowanSOM Operating Units, including, but not limited to, its clinical units and departments, must not enter into side agreements or arrangements whether written or oral with physicians or facilities without the explicit approval of the department chair and dean or chief executive officer. This policy also applies to all amendments and extensions/renewals of Subject Agreements with physicians or facilities. If at any time it appears that there have been discussions or memoranda indicating intent to induce referrals by way of a Subject Agreement, such Subject Agreement will not be approved.
    d. All Subject Agreements with potential referral sources must be reviewed and approved by the responsible dean, chief executive officers, and the Office of Legal Management prior to execution. In most cases, this approval is evidenced by signatures on the applicable term sheet or approval form. Legal review and approvals must be obtained even if the Subject Agreement complies in all respects with RowanSOM policies. Legal review and approvals also must be obtained for amendments to existing Subject Agreements that revise the payment terms or the effective dates of the existing Subject Agreement. It is not acceptable to obtain the appropriate approvals after making payments in accordance with the Subject Agreement. Commitments to physicians may not be made until written approvals have been obtained from the responsible dean, chief executive officer and the Office of Legal Management. Signature authority for all Subject Agreements is subject to RowanSOM policy, Legal Commitment Authority, 00-01-90-05: 00.
2. The Office Compliance and Corporate Integrity will educate responsible parties on the laws, regulations and policies applicable to Subject Agreements with Potential Referral Sources, will monitor and review

such Subject Agreements, will ensure that fair market value documentation attached to Subject Agreements reflects fair market value for the services rendered and will assist the responsible dean or chief executive officer with remediating such Subject Agreements when potential violations of Section VI of this policy are detected.

3. Execution Timing: The Subject Agreement must be fully executed before any services are provided and before payment is made or received.
4. Compliance with Subject Agreement terms: In all arrangements with Potential Referral Sources, payments must be consistent with the terms of the Subject Agreement and performance of all of the terms of the Subject Agreement is required. For example, monies owed by a physician under a lease agreement must be paid in accordance with the terms of the documents. Accurate and complete records of all time and effort must be maintained by the facility, clinical unit or department. The RowanSOM Operating Unit must accurately track remuneration paid or received pursuant to an agreement. The Office Compliance and Corporate Integrity is responsible for conducting annual probe sample reviews for time and effort reporting and remuneration tracking.

VII. NON-COMPLIANCE AND SANCTIONS

Any individual who violates this policy shall be subject to discipline up to and including dismissal from the University in accordance with their union and University rules. Civil and criminal penalties may be applied accordingly. Violations of this policy may require retraining and be reviewed with employee during the annual appraisal process. The Deans of each College, Vice Presidents, and University President, with the assistance of the Department of Human Resources, will enforce the sanctions appropriately and consistently to all violators regardless of job titles or level within the University and in accordance with bargaining agreements for represented employees. Any sanction costs or fines will be borne by the Department and the Department Chair or VP will determine how these funds will be assigned.

By Direction of the President:

Signature on file

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Chief Audit, Compliance and Privacy Officer