

 <p>Hilo Medical Center <i>We Care for Our Community</i></p> <p>Policy and Procedure</p>	<p>Subject / Title:</p> <p>PHYSICIAN EMPLOYMENT ARRANGEMENTS</p>	Policy No.: 850-101-29
		Origination Date: 8/07
		Last Revision Date:
		Last Review Date: 3/09 By: <u>Stephen Palmore</u> , <u>Regional Compliance officer</u> Name and Title
	Department: ADMINISTRATION	Supersedes Policy: Page: 1 of 14, Appendices A, B, & C

I. PURPOSE:

To establish standard procedures for requesting employed physician services and for drafting, reviewing and approving physician employment arrangements for which the physician is or may be a potential source of health care business or referrals to or from the Hilo Medical Center (HMC).

II. DEFINITION:

A. Physician employment arrangements include new and renewed employee physician arrangements executed after the effective date of the Corporate Integrity Agreement (CIA) dated July 27, 2007 between Hilo Medical Center and the Office of Inspector General (OIG) of the Department of Health and Human Services.

B. Covered Persons includes all owners, officers, directors, employees of HMC, contractors, subcontractors, agents and other persons who provide patient care items or services or who perform billing or coding functions on behalf of HMC and physicians with active medical staff privileges at HMC.

Covered Persons does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become Covered Persons at the point when they work more than 160 hours during the calendar year.

C. Arrangements shall mean every arrangement or transaction that:

1. Involves, directly or indirectly, the offer, payment, solicitation, or receipt of anything of value; and is between HMC and any actual or potential source of health care business or referrals to HMC or any actual or potential recipient of health care business or referrals from HMC. The term “source” shall mean any physician, contractor, vendor, or agent and the term “health care business or referrals” shall be read to include referring, recommending, arranging for, ordering, leasing, or purchasing

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of any good, facility, item, or service for which payment may be made in whole or in part by a federal health care program; or

2. Is between HMC and a physician (or a physician's immediate family member (as defined at 42 C.F.R. § 411.351)) who makes a referral (as defined at 42 U.S.C. § 1395nn(h)(5)) to HMC for designated health services (as defined at 42 U.S.C. § 1395nn(h)(6)).
 - a. A physician's immediate family member includes a 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; and spouse of a grandparent or grandchild (42 C.F.R. § 411.351).
 - b. Referrals are defined as the request by a physician for the item or service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician) or the request or establishment of a plan of care by a physician which includes the provision of the designated health service (42 U.S.C. § 1395nn(h)(5)).
 - c. Designated health services include: clinical laboratory services; physical therapy services; occupational therapy services; radiology services (including magnetic resonance imaging, computerized axial tomography scans, ultrasound services, and nuclear medicine and supplies); radiation therapy services and supplies (including nuclear medicine and supplies); durable medical equipment and supplies; parenteral and enteral nutrients, equipment, and supplies; prosthetics, orthotics, and prosthetic devices and supplies; home health services; outpatient prescription drugs and inpatient and outpatient hospital services (42 U.S.C. § 1395nn(h)(6)).

III. POLICY:

- A. HMC shall ensure that physician employment arrangements comply with state and federal rules and regulations including the Anti-Kickback Statute and the Stark Law.
- B. The physician employment arrangements will be documented in writing, signed by all parties to the arrangement and will include the following terms:
 1. A specific and comprehensive description of the services to be performed by the physician;

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2. The physician compensation, which will be determined and set in advance, be reasonable and consistent with the fair market value (FMV) and will not take into account the volume or value of referrals by the physician;
 3. The term of the physician arrangement;
 4. A requirement that the parties to the arrangement comply with the HMC compliance program and any state and federal rules and regulations including the Anti-Kickback Statute and the Stark Law.
- C. HMC shall ensure the storage and maintenance of the physician employment arrangements and any supporting documentation.
- D. HMC shall ensure that no offers or commitments are made to physician candidates until HMC legal counsel has approved the arrangement.

IV. PROCEDURE:

- A. If the physician employment arrangement is for an established position that is vacant, go to Step L.
- B. The HMC technical representative (TR) and the Recruitment Committee identify a need for employed physician services.
- C. The HMC TR and the Recruitment Committee develop a job description for the identified employed physician services.
 1. The HMC TR and the Recruitment Committee define the scope of services to be performed by the employed physician.
 2. The HMC TR and the Recruitment Committee provide a reasonable estimate of the number of hours necessary for the employed physician to complete the requested services to determine if the position requires full time or part time employment. The estimated hours may be based on the number of current physicians with privileges at HMC; the expected population growth, community health indicators, etc.
 3. The HMC TR and the Recruitment Committee provide justification for the position.
- D. The HMC TR documents the physician job description and the justification on an HR-01 to create the employee physician position. Refer to Appendix A for a sample of the HR-01 form.
- E. The HMC TR and the appropriate department manager (i.e., the Medical Group Practice Director) sign the HR-01. The HMC TR forwards the HR-01 to the Personnel Management Specialist.

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- F. The Personnel Management Specialist reviews the completed HR-01 and forwards the form to the Departmental Personnel Officer for approval.
- G. The Departmental Personnel Officer signs the HR-01 to indicate approval and forwards the form to the HMC Chief Financial Officer (CFO).
- H. The HMC CFO reviews and signs the HR-01 to authorize budgeted or unbudgeted funding for the position.
- I. The HMC Chief Executive Officer (CEO) reviews and signs the HR-01 to authorize the addition of the position to HMC.
- J. The Hawaii Health Systems Corporation (HHSC) President/CEO reviews and signs the HR-01 to approve the addition of the employed physician position.
- K. The HMC TR notifies the HMC Compliance Committee via email of the creation of the position.
 - 1. The Compliance Committee reviews the physician position at the next Compliance Committee meeting.
 - 2. The Compliance Committee documents the receipt of notice of the position, the review of the position and any objections to the creation of the position in the Compliance Committee meeting minutes.
 - 3. If necessary, the Compliance Committee communicates any objections to the appropriate HMC TR, HMC CEO and HMC CFO.
- L. The Personnel Management Specialist or designee posts a physician vacancy announcement on the internet. The HMC TR or designee may also conduct additional recruiting activities by posting the job vacancy in medical journals, mail outs, etc.
- M. The HMC TR and/or the HHSC Physician Recruiter receive physician responses and applications.
- N. The HMC TR or designee screens all physician applicants against the Exclusion Lists. Refer to Policy No.: 850-101-25 Screening and Removal of Ineligible Persons for the screening procedures.
 - 1. If the physician applicant is identified on an Exclusion List, the HMC TR eliminates the physician applicant from consideration for the position.
 - a. The HMC TR sends a notification letter to the physician applicant informing the physician that he/she does not satisfy the qualifications for the position.

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- b. The HMC TR continues to screen the remaining physician applicants. Return to Step M.
2. If the physician applicant is not identified on an Exclusion List, proceed to the next step.
- O. The Recruitment Committee and the Senior Management Team review and validate the professional qualifications of the physician candidate, interview the physician, gain an understanding of the physician's compensation expectations and have the physician visit HMC if necessary. Once a candidate is accepted, go to the next step. Otherwise continue to search for another physician candidate. Return to Step M.
 - P. The Medical Group Practice Director or designee notifies the physician candidate of HMC's interest and may provide a copy of the Physician Employment Agreement template.
 - Q. The Medical Group Practice Director notifies Human Resources (HR) and the Medical Staff Office (MSO) via email of HMC's interest in a physician candidate.
 1. HR and Employee Health screen the physician candidate prior to being authorized to work at HMC. Refer to Policy No.: 770-128-05 for the in-processing procedures.
 2. MSO completes the physician credentialing process for the physician candidate. Refer to Policy No.: 780-115-05 Application for Initial Appointment/Reappointment for the credentialing procedures.
 3. If necessary, HR and MSO immediately notify the Medical Group Practice Director of any issues.
 - R. The Medical Group Practice Director or designee calculates the physician compensation by completing an FMV report.
 1. For full time compensation, the Medical Group Practice Director or designee selects the appropriate average annual salary information by physician specialty. The average annual salary information is calculated for the 50th percentile and other selected percentiles by physician specialty using annual salary data from at least four of the following national surveys:
 - a. The ECS Watson Wyatt - Hospital and Health Care Management Compensation Report;
 - b. The HayGroup - Physicians Compensation Survey;

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- c. The Hospital and Healthcare Compensation Service - Physician Salary Survey Report;
 - d. The Medical Group Management Association - Physician Compensation and Productivity Survey;
 - e. The Sullivan, Cotter & Associates, Inc. - Physician Compensation and Productivity Survey or
 - f. The William M. Mercer - Integrated Health Networks Compensation Survey.
2. For part-time compensation, the Medical Group Practice Director or designee calculates an hourly rate by dividing the average annual salary calculated in Step R.1 by 2,000 hours. The Medical Group Practice Director or designee calculates the total physician compensation by multiplying the estimated number of hours for the position by the hourly rate.
 3. The Medical Group Practice Director or designee adjusts (e.g., increase or decrease) the calculated physician compensation to reflect the candidate's experience and other considerations. However, the compensation does not take into account the volume or value of referrals by the physician.
 4. The Medical Group Practice Director or designee may adjust the physician compensation to account for a sign-on and/or productivity bonus based on the services personally performed by the physician.
 5. The Medical Group Practice Director or designee also accounts for all non-monetary remuneration (i.e., malpractice coverage) in the FMV report. The total remuneration to be paid to the physician should not exceed the 100th percentile.
 6. The Medical Group Practice Director or designee documents the data, materials (e.g., relevant letters, reports, schedules, etc.) and calculations used to complete the report.
- S. The Medical Group Practice Director or designee forwards the FMV report and supporting documents to the FMV legal counsel for review. The FMV legal counsel completes the FMV analysis report.
1. The FMV legal counsel reviews the FMV report and completes the FMV analysis. If clarification of the FMV report is needed, the FMV legal counsel discusses any questions with the Medical Group Practice Director or designee and revises the report as necessary.

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2. The FMV legal counsel signs the FMV analysis report to indicate that the report was reviewed and approved.
 3. The FMV legal counsel forwards the approved FMV analysis report to the Medical Group Practice Director or designee.
- T. The Medical Group Practice Director or designee presents the proposed physician compensation and the FMV analysis to the Senior Management Team. If the compensation is approved, proceed to the next step. Otherwise, address the comments from the Senior Management Team and return to Step S.
- U. The Medical Group Practice Director or designee forwards the FMV analysis and documents to the HMC Contract Manager.
- V. The HMC Contract Manager drafts the physician employment arrangement.
1. The HMC Contract Manager screens the physician candidate against the Exclusion Lists. Refer to Policy No.: 850-101-25 Screening and Removal of Ineligible Persons for the screening procedures.
 - a. If the physician candidate is identified on an Exclusion List, the HMC Contract Manager eliminates the physician applicant from consideration and notifies the HMC TR. The HMC TR sends a notification letter to the applicant informing the physician that he/she does not satisfy the qualifications for the position. Return to Step M to continue to search for another physician candidate.
 - b. If the physician candidate is not identified on an Exclusion List, proceed to the next step.
 2. The HMC Contract Manager uses the appropriate Physician Employment Agreement template to document the physician employment arrangement. The written contract must include the following terms:
 - a. A specific and comprehensive description of the service(s) to be provided by the physician.
 - b. The term of the physician employment contract. For full time clinical physicians, the contract term is for multiple years and a minimum of three years is preferred. For all other physician employment contracts, the contract term is negotiable.
 - c. The physician compensation.
 - d. The physician's compliance obligations such as:

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- i. The physician shall comply with HMC's compliance program including any training requirements.
 - ii. Certification by the physician to the arrangement that the parties shall not violate the Anti-Kickback Statute and Stark Law with respect to the performance of the arrangement.
 - iii. A requirement that the physician will immediately notify the HMC TR of any exclusion, debarment, suspension or other ineligibility to participate in the federal health care programs or in federal procurement or nonprocurement programs or of any conviction of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a) but has not yet been excluded, debarred, suspended, or otherwise declared ineligible. Refer to Policy No.: 850-101-25 Screening and Removal of Ineligible Persons for the screening procedures.
 - iv. A requirement that employed medical directors and part time employed physicians complete and submit activity logs documenting the designated duties performed per the applicable arrangement.

- W. The HMC Contract Manager screens the physician employment arrangement against the Anti-Kickback Statute and the Stark Law by entering additional contract information into the Arrangements Tracking database. The following information is entered into the Arrangements Tracking database:
 - 1. Physician arrangement information (e.g., physician name, contract no., etc.);
 - 2. Date of exclusion screening (Exclusion Date);
 - 3. FMV information (entered by the Medical Group Practice Director)
 - 4. Other required arrangement information.

- X. The HMC Contract Manager completes the Contract Routing Form to ensure that all necessary and required documents and information are obtained to finalize the employee physician arrangement. Refer to Appendix B for a sample of the Contract Routing Form.

- Y. The HMC Contract Manager forwards a draft of the written physician contract and all supporting documentation to the HMC legal counsel for review.

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- Z. The HMC legal counsel with knowledge of the appropriate state and federal rules and regulations reviews the physician employment contract to ensure that the arrangement does not violate the Anti-Kickback Statute and Stark Law. If issues or questions result from the legal review, the HMC legal counsel works with the HMC Contract Manager to resolve the issue(s). The HMC legal counsel revises the physician employment contract accordingly and returns it to the HMC Contract Manager.

- AA. The HMC legal counsel signs the Contract Routing Form or provides an email approval to the HMC Contract Manager to indicate that the legal review of the physician arrangement was completed.

- BB. If necessary, the HMC Contract Manager revises the information previously entered into the HMC Arrangements Tracking database to reflect any changes made to the physician contract.

- CC. The HMC Contract Manager forwards the final version of the physician contract to the Medical Group Practice Director.

- DD. The Medical Group Practice Director forwards two copies of the physician employment contract to the physician candidate for review along with copies of the HMC Code of Conduct and the Anti-Kickback Statute and Stark Law policies and procedures.

- EE. The physician candidate reviews the physician employment contract and supporting documents.
 - 1. If the physician candidate requests changes to the physician service contract language, the Medical Group Practice Director reviews the contract language changes to determine whether to revise the physician contract.
 - a. If the Medical Group Practice Director decides to revise the contract language, the Medical Group Practice Director emails the contract language changes to the HMC legal counsel for review with a copy to the HMC Contract Manager. Return to Step Y.
 - b. If the Medical Group Practice Director decides not to revise the contract language, the Medical Group Practice Director notifies the physician candidate.
 - i. If the physician candidate wants to proceed with contracting, go to Step EE.2.
 - ii. If the physician candidate does not want to continue with contracting, return to Step M.

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2. If the physician candidate requests changes to the physician compensation, the Medical Group Practice Director reviews the requested change to the physician compensation to determine whether to revise the physician contract:
 - a. If the Medical Group Practice Director decides to modify the physician compensation, the Medical Group Practice Director revises the FMV report. Return to Step R.
 - b. If the Medical Group Practice Director decides not to change the physician compensation, the Medical Group Practice Director notifies the physician candidate of this decision.
 - i. If the physician candidate wants to proceed with contracting, go to Step EE.2.
 - ii. If the physician candidate does not want to continue with contracting, return to Step M.
 3. If the physician candidate does not request changes to the physician contract, the physician candidate signs both copies of the physician contract and forwards the signed contracts to the Medical Group Practice Director.
- FF. The HMC CFO reviews and signs the Contract Routing Form and the Officer Certification Form. Refer to Appendix C for a sample of the Officer Certification Form.
- GG. The HMC CEO reviews and signs the Officer Certification Form and both copies of the physician contract.
- HH. The HMC Contract Manager enters the contract effective date and expiration date into the Arrangements Tracking database to indicate that the physician employment arrangement was executed.
- II. The HMC TR forwards one executed copy of the physician contract to the physician candidate.
- JJ. The HMC Contract Manager files the other executed copy of the physician contract and the supporting documents in the corresponding contractor's file. Refer to Policy No.: 850-101-22 Compliance Record Management for the procedures to retain, store, retrieve and destroy documents and records relating to the HMC compliance program. The supporting documents include but are not limited to:
1. The executed physician contract signed by all parties;

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2. The FMV analysis and proof of legal review of the analysis;
 3. The Contract Routing Form (includes proof of legal review); and
 4. The Officer Certification Form.
- KK. The HMC Contract Manager forwards a copy of the contract (hard copy or electronic) to the following departments and individuals:
1. HR;
 2. The HMC TR for contract monitoring purposes;
 3. The Medical Staff Office; and
 4. The Hawaii Health Systems Corporation legal department.

HAWAII HEALTH SYSTEMS CORPORATION
ACTION REQUEST FOR POSITION/APPOINTMENT

1. Action Requested: <div style="background-color: #e0e0e0; text-align: center; padding: 2px;">POSITION ACTIONS</div> <input type="checkbox"/> Establishment: <input type="checkbox"/> Temporary <input type="checkbox"/> Replacement for position # _____ <input type="checkbox"/> Permanent <input type="checkbox"/> Exempt <input type="checkbox"/> Redescription <input type="checkbox"/> Reallocation		2. Action Requested: <div style="background-color: #e0e0e0; text-align: center; padding: 2px;">II. PERSONNEL ACTIONS</div> <input type="checkbox"/> Request to Fill : <input type="checkbox"/> Perm <input type="checkbox"/> Exempt <input type="checkbox"/> Per Diem <input type="checkbox"/> Temp w/ benefits <input type="checkbox"/> Temp w/o benefits NTE: _____ <div style="background-color: #e0e0e0; text-align: center; padding: 2px;">FOR HR USE ONLY:</div> Requisition #: <input type="checkbox"/> Movement/Appt <input type="checkbox"/> Promotion <input type="checkbox"/> Transfer <input type="checkbox"/> Voluntary Demotion Date of Last Promo		
3. Requesting Facility:	4. Dept/Unit:	5. Present FTE Auth:	6. Proposed FTE Auth:	7. Target Date to Fill/Establish:

CIVIL SERVICE POSITION

8. Present Position No.:	9. Position Title/SR/BU/Type of Position
RECOMMENDED: ➔	10. Position Title/SR/BU/Type of Position
NEW POSITION NO.:	

EXEMPT POSITION

RECOMMENDED:	11. Position Title:	12. Proposed Salary \$
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Explanation/Justification: (If more space is needed, please attach sheet)

14. Facility Approved/Not Approved: _____ Date _____ Department Manager	
_____ Date _____ Senior Manager	<input type="checkbox"/> Recommended/within auth ceiling <input type="checkbox"/> Not Recommend <input type="checkbox"/> Recommend/beyond auth ceiling
_____ Date _____ Human Resources Director/Designee	<input type="checkbox"/> Recommend <input type="checkbox"/> Not Recommend
_____ Date _____ Chief Financial Officer	<input type="checkbox"/> Budgeted Funds <input type="checkbox"/> Unbudgeted Funds
_____ Date _____ Regional/Facility-Chief Executive Officer	<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved

FOR HR USE ONLY 15. For Exempt or New Class/Position: Pertinent Relationships Considered – Class Salary Range _____ _____ _____	Reasons why position does not fit Civil Service class: _____
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16. Corporate Approval/Non-Approval _____ Date _____ VP/Director of Human Resources, HHSC or Designee	<input type="checkbox"/> Recommend <input type="checkbox"/> Not Recommend <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved
_____ Date _____ Corporate-President/CEO or Designee	

CONTRACT ROUTING FORM

HHSC Log No. : _____

Name of Contractor: _____ Corporate Facility: _____

Brief Description of Goods/Services:

Contract Highlight Only:

1. Term: _____

2. Total Cost (current NTE): \$ _____, New NTE: \$ _____

Documents or Information obtained, as applicable (completed by CM):				Comments
	Yes	No	N/A	
1. Tax Clearance Certificate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Federal Exclusion Check	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. W-9 Form Sent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Certificate of Compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Certificate of Good Standing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Fair Market Value Completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Physician Officer Certification Completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<p align="center"><u>Legal Review</u></p> <p>I have reviewed the recommended action and conclude that it (is/is not) consistent with applicable legal requirements and good purchasing practices.</p>	Yes	No	<p align="center">Procurement Attorney</p> <p>_____</p> <p>Print Name/Signature Date</p>
	<input type="checkbox"/>	<input type="checkbox"/>	

Comments:

<p align="center"><u>Contract Manager</u></p> <p>As responsible contract manager, I have reviewed this contract, and I believe, based upon my professional judgment and experience, that it is consistent with applicable procurement procedures and good purchasing practices.</p>	Yes	No	<p align="center">Contract Manager</p> <p>_____</p> <p>Print Name/Signature Date</p>
	<input type="checkbox"/>	<input type="checkbox"/>	

Comments:

CFO Regional (as required)	Signature:
CFO Corporate (as required)	Signature:

OFFICER CERTIFICATION
PHYSICIAN FINANCIAL ARRANGEMENTS

We, _____, Regional Chief Executive Officer and _____, Regional Chief Financial Officer, of the _____ region hereby certify that to the best of our knowledge, the following matters are true for the employment (or contractual) agreement by and between _____ (hospital) and _____ (name) dated _____ (the "Arrangement"):

1. There are no other arrangements, written or oral, with _____ or with any of his/her immediate family members, except as written in the Arrangement or as cross-referenced in the master list of HHSC physician financial arrangements;
2. The payments pursuant to the Arrangement represent the fair market value of the services to be rendered thereunder;
3. No payment has been or will be made, to the professional referenced herein outside of the terms and conditions of the Arrangement unless such outside payment is also consistent with the Hawaii Health System Corporation's policies; and
4. We, as the Regional Chief Executive Officer and Regional Chief Financial Officer of the _____ region, shall ensure that the services required under the Arrangement are rendered prior to making each payment thereunder.

Date: _____

Signature: _____
Regional Chief Financial Officer

Date: _____

Signature: _____
Regional Chief Executive Officer