

PHYSICIAN CONTRACT CHECKLIST: RECRUITMENT, EMPLOYMENT, AND INDEPENDENT CONTRACTORS

Name of Physician

Specialty

Subject Matter of Contract

TO _____
Term of Contract

	<u>Yes</u>	<u>No</u>
Under the Contract, will Physician be an: Employee		
Independent Contractor, or		
Private Practitioner not rendering services on behalf of the [Organization Name]		
Is Physician being recruited to relocate to the geographic area served by [Organization Name] ?		
If so, will Physician's practice be moved greater than 25 miles?		
Is Physician currently, or will the physician be an employee, shareholder, member or owner of a medical group, professional corporation, company, or entity other than [Organization Name] ?		
If so, state the name of such group, or entity. Include any group or entity that is related to [Organization Name]		

I. OVERVIEW

Because of the Anti-Kickback Statute, Stark Law and Internal Revenue Code, it is essential that any benefits or compensation given to physicians be consistent with fair-market-value for the services provided. Tax-exempt organizations must have a systematic process for reviewing and approving agreements with physicians, including agreements involving physician recruitment, to ensure compliance with all applicable laws. This Checklist is designed to ensure that **[Organization Name]** meets these requirements when it recruits physicians to enter private practice in **[geographic location]** or to become employees or independent contractors of **[Organization Name]**.

[Organization Name] should maintain a Master File for each physician with whom it has any agreement or arrangement. The Master File should contain this Checklist as well as copies and documentation of every agreement or arrangement with each physician. (e.g., with whom the **[Organization Name]** has entered a joint venture) may not contain this Checklist because the **[Organization Name]** does not provide the physician any benefits or compensation.)

Sections II and III must be completed before a Committee of the Board of Trustees (the "Committee") considers the Contract. Section II must be completed before the Physician is presented with the Contract. The Committee should review the completed Sections II and III as well as all documentation used to complete Section II before approving any contract.

The Contract should not be executed prior to Committee approval (although the Physician may be presented with the Contract "pending approval of the Committee"). Thus, Section IV should be completed before Contract execution. The full Board need not review the Contract before it is executed.

Section V outlines the Company's ongoing responsibilities after the Contract is executed. We recommend that Section V be reviewed and the Checklist updated after Contract execution and as appropriate thereafter (but no less often than annually).

If you have any questions about how to complete or use the Checklist, ask your Supervisor or consult legal counsel.

II. DOCUMENTATION

Date of Completion of Checklist: _____
Name of Person Completing Checklist: _____
Title of Person Completing Checklist: _____

This Section must be completed before the Committee approves the Contract and before the Contract is presented to the Physician.

A. TOTAL COMPENSATION FOR EMPLOYEES

If Physician is to be an employee under the Contract, complete this Subsection A. If Physician will not be an employee, go to Subsection B.

List the types and value of all compensation the Physician will receive as an Employee. (Include compensation and benefits from all entities related to **[Organization Name]**. Attach separate sheets as necessary.)

Base Compensation	\$
Maximum Incentive Compensation	\$
Compensation for Medical Director or Other Administrative/Consultative Services	\$
Malpractice Insurance Premium	\$
Travel and Expense Reimbursement for Continuing Medical Education	\$
Medical Society Dues	\$
Fees for Applying for Participating Status in Managed Care Networks	\$
Licensing Fees	\$
Pension Benefits	\$
Health Insurance	\$
Life Insurance	\$
Car Allowances	\$
Subsidy for Parking	\$
Cellular Phone or Other Telephone Allowance	\$
Signing Bonus	\$
Maximum Reimbursement for Moving and Relocation Expenses	\$
Interview Travel Expenses	\$
Loan or Salary Advance:	
Amount	\$
Amount to be forgiven each year	\$
Other	\$
TOTAL VALUE OF ALL COMPENSATION	\$

	Yes	No
Is each form of compensation reflected in the Contract?		
The Physician should not receive any benefits or payments that are not covered by or described in a written agreement. If any incentive or other form of compensation that will be provided is not included in the Contract, is it reflected in another written agreement?		
Is there or will there be any joint venture agreement between [Organization Name] or one of its related entities and the Physician?		
If the Physician will be employed less than full-time, will [Organization Name] or one of its related entities have with the Physician:		
any turn-key agreement?		
any space lease agreement?		
any equipment lease agreement?		
any personal services agreement?		
any billing services agreement?		
any personnel services and/or training agreement?		
any administrative services agreement?		
any practice management agreement?		
any Medical Director agreement?		
any research agreement?		
any purchasing agreement?		
other? <i>(please list on a separate sheet of paper if necessary)</i>		
Are all written agreements with the Physician attached?		
Is Physician required to submit receipts for all expenses that are reimbursed?		
Are receipts for all expenses paid for and documentation (or summaries) of all benefits provided by [Organization Name] attached?		

B. NON-EMPLOYEES

1. Total Compensation for Non-Employees

This Subsection should be completed for all physicians who will be independent contractors or who are being recruited to enter private practice.

List the types and value of all compensation the Physician will receive. (Include compensation and benefits from all entities related to *[Organization Name]*. Attach separate sheets as necessary.)

Compensation for Professional Services and/or Coverage	\$	
Compensation for Medical Director or Other Administrative/Consultative Services	\$	
Income Guarantee:		
Maximum Payment per year	\$	
Loan:		
Amount	\$	\$
Amount to be forgiven each year	\$	
List every other form of assistance provided to the Physician and/or his/her family (cash or non-cash) and the value		
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
TOTAL VALUE OF ALL COMPENSATION	\$	

	<u>Yes</u>	<u>No</u>
Is each form of compensation reflected in the Contract?		
The Physician should not receive any benefits or payments that are not covered by or described in a written agreement. If any incentive or other form of compensation that will be provided is not included in the Contract, is it reflected in another written agreement?		
Is there or will there be any joint venture agreement between [Organization Name] or one of its related entities and the Physician?		
Does or will the [Organization Name] or one of its related entities have with the Physician:		
Any turn-key agreement?		
Any space lease agreement?		
Any equipment lease agreement?		
Any personal services agreement?		
Any billing services agreement?		
Any personnel services and/or training agreement?		
Any administrative services agreement?		
Any practice management agreement?		
Any consultation services agreement?		
Any Medical Director agreement?		
Any research agreement?		
Any purchasing agreement?		
Any bills of sale?		
Other? (please list on a separate sheet of paper if necessary)		
Are all such written agreements attached?		
Is Physician required to submit receipts for all expenses that are reimbursed?		
Are receipts for all expenses paid for and documentation (or summaries) of all benefits Provided by the [Organization Name] attached?		
If [Organization Name] will provide support staff or other office personnel to assist Physician in his/her private practice, did you attach:		
Documentation of the expenses incurred or expected to be incurred in providing such staff?		
Documentation of the apportionment of time to be spent by each such staff member performing activities or duties for the benefit of [Organization Name] and the Physician's private practice, respectively?		

Additional requirements apply to each of these types of agreements. Legal counsel should be consulted prior to presenting any such agreement to the Physician.

2. COMMUNITY NEED

(Complete this section only if recruitment incentives are being offered to the Physician: Note: Recruitment incentives can be offered only if Community Need is established.)

	<i>Yes</i>	<i>No</i>
Does [Organization Name] have a Medical Staff Development Plan in effect?		
If so, are the sections of the Medical Staff Development Plan that are directly relevant to Recruitment of Physician attached?		
Is documentation of <u>community need</u> for a physician with skills held and maintained by the Physician with whom [Organization Name] is contracting attached?:		
Community need: Check all of the following that apply and provide appropriate explanatory documentation.	<input checked="" type="checkbox"/>	
The population-to-physician ratio in the community is deficient in the relevant specialty relative to the ideal ratio contained in Graduate Medical Education National Advisory Committee (GMENAC) reports		
There is a demand for a particular medical service in the community for which the Physician is being recruited, coupled with a documented lack of availability of the service or long waiting periods for the service		
The community or area where the Physician will serve when the agreement is executed has been designated a "Health Professional Shortage Area" (as defined by federal regulations)		
There is a demonstrated reluctance of physicians to relocate to the community due to [Organization Name] 's physical location (e.g., because the hospital is in a rural or economically disadvantaged inner-city area)		
[Organization Name] anticipates a reduction in the number of physicians in the relevant specialty in the Service area due to anticipated retirements during the next three years		
There is a documented lack of physicians serving indigent or Medicaid patients within the Company's service area, provided that the recruited Physician commits to serving a "substantial number" of Medicaid and low income patients		
A need exists in the community for a physician with the skills held and maintained by this particular Physician		
[Organization Name] is engaging in a geographic market extension		
[Organization Name] is engaging in a specialty market extension		
[Organization Name] is attempting to improve the quality of care provided. (A specific statement of how the recruitment of this particular Physician will help to improve quality is recommended.)		
This particular Physician will replace a physician who is retiring or resigning		
This particular Physician has administrative expertise that is needed by [Organization Name]		
This particular Physician will help to fill a specific payor demand		
The addition of this particular Physician will help [Organization Name] to fulfill a specific licensing or regulatory requirement		
The addition of this particular Physician will enhance the services provided at a satellite site		
The addition of this particular Physician will help [Organization Name] to implement its strategic plan or vision;		
The recruitment of this particular Physician will assist [Organization Name] with a given program's development or extension		

Note: all of the criteria above needs to be analyzed to determine if community need is documented. Not every factor, by itself, may support sufficient community need to provide financial incentives to a physician to relocate.

C. REASONABLENESS OF COMPENSATION

Approximately what time commitment will be required of Physician?

Hours per yr/month/wk

	<u>Yes</u>	<u>No</u>
Is the total compensation consistent with the fair-market-value of the services the Physician will render, as reflected in national survey data or other documentation reasonably relied upon by person completing Checklist? To complete fair-market value, the amount to be paid to the Physician may need to be calculated at an hourly rate. Factors that may be relevant when determining where along the fair market value range the Physician should be compensated include, without limitation, specialty, board certification or eligibility, geographic location, years in practice, etc.		
Have copies of all survey data relied upon been attached? Note: Contract cannot be approved until survey data is attached to Checklist. Also, if Physician is to be compensated above the 50th percentile, attach a memo explaining why physician should be compensated above the 50th percentile. NO CONTRACT SHALL BE APPROVED IF DESIRED COMPENSATION IS ABOVE 90TH PERCENTILE.		
If financial incentives are being offered to recruit a physician to relocate to <i>[Organization Name]</i> 's geographic area, state nature of all financial incentives to be offered		
If <i>[Organization Name]</i> will make a loan to the Physician, state the amount.	\$	
Annual Fixed Interest Rate	%	
Prime Rate at the Time of the Loan	%	
Source of Prime Rate:		
Repayment Terms:		
Forgiveness Provisions, if any:		
	<u>Yes</u>	<u>No</u>
Will the Physician be required to sign a Promissory Note?		
What security will the Physician be required to provide?		
Physician's house		
Physician's accounts receivable and equipment		
Other assets (<i>describe</i>)		
Is the Physician required to purchase a life insurance policy naming <i>[Organization Name]</i> as a beneficiary?		
Amount?	\$	
For Non-Employee Physicians only, if the Company provides an Income Guarantee, state the Length of Guarantee: _____ years		

Repayment Terms:		
Forgiveness Provisions, if any:		
If an Income Guarantee will be offered, are the expenses limited only to the incremental expense for the addition of the relocating physician	<u>Yes</u>	<u>No</u>
If moving expenses are being reimbursed, is the reimbursement consistent with <i>[Organization Name]</i> 's policies?		
Are the moving expenses reasonable? State why:		
If relocating Physician joins an existing group, is there a prohibition on restricting the Physician's practice (i.e., restrictive covenant)?		

III. ARM'S-LENGTH TRANSACTION

Date of Completion: _____

This Section should be completed contemporaneously with negotiation and execution of the Contract. Identify the people substantially involved in negotiating with the Physician.

	<u>Yes</u>	<u>No</u>
Did any of these individuals have a conflict of interest due to a relationship, financial or otherwise, with the Physician or one of the Physician's close family members?		
Did the Physician reject any offer made by <i>[Organization Name]</i> ? (<i>If so, attach additional sheets describing in detail and forward any correspondence from physician to [legal contact title].</i>)		
Did the Physician seek a relationship with or receive any offers from other hospitals or providers? (<i>if so, and if offers have been produced by Physician, forward other offers to [legal contact name].</i>)		

IV. PROCESS

This Section must be completed before the Contract is executed.

Prior to Execution, Contract Approved by:	Name	Date
Board of Trustees Committee		
Outside Legal Counsel		

Before *or after Contract execution*, the Board of Directors must ratify the Contract.

	Yes	No
Did any Member of the Committee have a conflict of interest concerning the Contract?		
If so, did such Member(s) participate in discussions of and/or voting on the Contract?		
Did the Committee consider documentation of the reasonableness of compensation, Including national comparability survey data? (e.g., MGMA data)		
Did the Committee consider documentation of the community need for the physician? (Only applicable if recruitment incentives are offered.)		
Did the Committee document the basis for its decision to approve or disapprove the Contract?		

V. ONGOING OBLIGATIONS

This Section should be reviewed and updated after Contract execution and periodically thereafter (but no less often than annually).

1. Reporting

	<u>Yes</u>	<u>No</u>
Is the value of all compensation reported as income to the Physician through a Form 1099:		
For independent contractors?		
W-2 for employees?		
Please list all benefits and any other compensation that are not reported as income and discuss.		
Is the Physician's total compensation reported on the Company's Form 990?		

2. Ongoing Documentation

	<u>Yes</u>	<u>No</u>
<i>Did the Board of Trustees ratify the Contract?</i>		
Are the minutes from every Board meeting at which the Contract was discussed attached?		
Is a copy of the executed Contract attached?		
If the Company guarantees the Physician's billings, collections or income (collectively, "income guarantee"), financial statements from the Physician's private practice verifying actual billings, collections and income, must be maintained on an ongoing and periodic basis while the income guarantee is in effect. Have such billings, collection or income been verified for the most recent period for which a payment has been made?		
Are copies of such documentation of billings, collections and income attached?		
If the Company will make a loan to the Physician and the Physician granted the Company a secured interest, was such interest filed and perfected?		
Is documentation of such filing attached?		
Are all communications with governmental entities relating to the Physician (including without limitation, any IRS audit) documented and attached, if any?		
If the Physician acts as a Medical Director, does the Physician submit periodic time allocation sheets?		
If so, have such time allocate sheets been reviewed to verify that Physician's duties and responsibilities are consistent with the Contract and the benefits and compensation Physician receives?		

Attachment B
To The Physician Recruiting Agreements Policy

[Place on FA Letterhead]

OFFICER'S CERTIFICATION

1. Except as disclosed herein, there are no other arrangements, written or oral, with professional except as written in the Arrangement;
2. Terms of the Arrangement are commercially reasonable and fair market value and do not provide any additional remuneration than was reasonably determined necessary to recruit the physician;
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 FA's policies;
4. I, as the Chief Operating Officer, shall ensure that the services required under the Arrangement are rendered prior to making each payment thereunder; and
5. **[INSERT OTHER ARRANGEMENTS REFERENCED IN PARAGRAPH 1, IF ANY].**

Date: _____

Signature: _____

Printed Name:

Title: