

NEW YORK UNIVERSITY SCHOOL OF MEDICINE

FACULTY PRACTICE PLAN

As amended through September 1, 2009

I. Introduction.

The New York University School of Medicine (the "School of Medicine"), an administrative unit of New York University, establishes this Faculty Practice Plan (the "Plan") to provide a structure which will govern the relationships between and among its employed physicians and other licensed health care professionals. These professionals are all members of the faculty of the New York University School of Medicine, its clinical departments and/or the medical staffs of the School's affiliated hospitals. While the structure of the Plan is uniform across all Departments, the Plan will be administered, operated and accounted for on a Department-by-Department basis.

Faculty members who participate in the Plan will conduct the clinical practice of medicine within their specialty area in Faculty Practice Offices or other facilities operated by the School of Medicine. The clinical practices conducted by the employed faculty enhance the community's health, and further the institutional mission of the School of Medicine by broadening the understanding of patient needs and procedures, providing increased experience for medical students and residents, promoting translational research, and promoting the reputation, good will and support for the School of Medicine. The revenue generated from the clinical practices supports salaries and provides for the academic development of the School of Medicine. The Plan is designed to provide a base of financial support for these clinical practices, as well as appropriate incentives for individual faculty members to further their professional development.

II. Goals.

The Plan has been developed to help achieve the following institutional goals on a department-by-department basis:

- To provide a means to generate a level of income sufficient to attract and retain highly qualified clinical and research practitioners to the School's faculty to support the teaching, research and patient care missions of the School of Medicine;
- To provide teaching, supervisory and administrative services to medical students and residents;
- To stimulate interdisciplinary programs and expand opportunities for faculty participation in clinical research and the advancement of medical and biomedical sciences; and
- To provide for the governing and monitoring of the clinical practices of the employed faculty members so as to achieve a uniform level of Plan compliance and accountability.

III. Applicability.

A. Participation.

All faculty members employed by the School of Medicine who are licensed or otherwise lawfully permitted to practice medicine or a related health care profession in the State of New York shall be eligible to participate in the Plan during the term of their employment. Each such eligible faculty member who elects to participate in the Plan and who is recommended by the Department Chair of his/her clinical Department and approved for participation by the Dean of the School of Medicine (a "Participating Provider") shall be subject to the terms and conditions of the Plan. Each Participating Provider shall receive and execute an Offer Letter(the "Offer Letter") setting forth the terms and conditions of his/her employment and acknowledging the Participating Provider's receipt of and agreement to be bound by the Plan. All Participating Providers shall be

employed by the School of Medicine and shall carry out such clinical, teaching, administrative and research duties as may be determined by the Department Chair of the clinical department to which the Participating Provider belongs. The clinical practice of medicine by the Participating Provider shall be conducted in accordance with this Plan.

B. Clinical Services.

"Clinical Services" shall mean all professional services performed by the Participating Provider at facilities owned or operated by the School of Medicine or NYU Hospitals Center, or at other locations approved in writing by the Department Chair and the Dean (or the Vice Dean for Clinical Affairs, as designee) of the School of Medicine (the "Dean") prior to the relevant activity(ies).

C. Exclusivity.

Participating Providers shall not be permitted to engage in the practice of medicine outside the Plan, without the prior approval of their Department Chair and the Dean.

D. Revenues.

All revenue derived by Participating Providers from Faculty Practice Clinical Services shall be credited to or deposited in the Faculty Practice Plan Fund maintained for the Participating Provider's Department. All billings for Clinical Services rendered by Participating Providers shall be done by the School of Medicine or by a third-party billing vendor approved by the Dean.

IV. Organization.

A. Board of Trustees and the Dean.

The New York University Board of Trustees is responsible for the establishment of the Plan and its policies and procedures. The Board of Trustees has

delegated the implementation and management of the plan to the Dean of the School of Medicine.

B. Faculty Practice Plan Director.

The Vice Dean for Clinical Affairs shall assist the Dean in the implementation and management of the Plan. The Vice Dean for Clinical Affairs shall report to the Dean and be responsible for managing the fiscal, administrative, and support services for the Plan. The Vice Dean for Clinical Affairs shall relate to and interact with the Department Chairs and School of Medicine administrators on Plan issues, as appropriate.

C. Compensation.

Upon implementation of the Plan, the Participating Providers shall receive Compensation as provided in his/her Offer Letter with respect to services provided pursuant to the Plan. The Dean shall review and approve all compensation and benefit arrangements under the Plan. Any such arrangement which would exceed certain thresholds established by the New York University Board of Trustees shall require review and approval by the New York University Board of Trustees in accordance with policies established by the New York University Board of Trustees prior to payment.

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D. Department Chairs.

Department Chairs are responsible for the management of the Plan within their departments, including the planning, development, and review of clinical programs and clinical practices of the Participating Providers. Department Chairs shall recommend to the Dean faculty members who are eligible to participate in the Plan. Department Chairs shall recommend to the Dean annual Compensation for Participating Providers in the department.

V. Financial Structure.

Compensation will be paid to Participating Providers on the basis of activities in the School of Medicine, clinical practice, affiliated entities, grants and other sources of revenue. Compensation will be reviewed on an annual basis in accordance with the Compensation Review policy of New York University. With respect to each activity, some portion of compensation may be Committed Compensation; Committed Compensation shall be paid provided that the Participating Provider performs his/her obligations pursuant to the Offer Letter. Some portion of compensation may be Variable Compensation; Variable Compensation shall be paid provided that revenues of the Faculty Practice attributable to the professional services of the Participating Provider support the Variable Compensation, as calculated in accordance with the formula described in the Participating Provider's Offer Letter. In addition, the Participating Provider may be eligible for Incentive Compensation, upon achievement of objectives in excess of those targeted for the Variable Compensation. Each Participating Provider's Offer Letter shall state the amounts of Committed, Variable and Incentive Compensation expected for the initial term of the Offer Letter. Compensation will be reviewed annually and stated in a written addendum to the Offer Letter.

A. Fringe Benefits.

Each Participating Provider may be eligible to participate in fringe benefits on the basis of a "fringe benefits base" compensation based on plan guidelines, up to a total set by the Dean on an annual basis. Eligibility for pension contributions may not exceed the Federal Government's maximum permitted pension contribution base. Compensation in excess of the Fringe Benefits Base shall not carry with it any fringe benefits, but shall be subject to withholding taxes and other statutory deductions.

B. The Departmental Faculty Practice Plan Fund.

Each Participating Provider, subject to the approval of the Department Chair and the Dean, shall establish separate and identifiable charges for the Clinical Services to be provided by such Participating Providers. Each Participating Provider shall assign to the School of Medicine the right to bill and collect such fees in accordance with the Plan, as more fully described in Section VI. All fees collected are the property of the School of Medicine. Fees for Clinical Services shall be billed in the name and tax identification number of the School of Medicine, or if required by a third party payor, in the name of the Participating Provider rendering the service. Fees for Clinical Services rendered by the Participating Providers shall be maintained in a separately identified account of the Department to which the Participating Provider belongs in School of Medicine (each a "Department Fund"). Each Department Fund shall receive or be credited with all fees collected for Clinical Services rendered by the Participating Providers whose appointments are in such Department.

C. The Department Fund: Disbursement.

Each Department Fund shall be disbursed as follows:

1. Five percent (5%), or such other percentage as shall be set by the Dean, of all fees collected for Clinical Services shall be paid to the School of Medicine for development of academic, research and clinical programs as directed by the Dean.
2. A portion of all fees collected for Clinical Services shall be paid to the Department Academic Fund as determined by the Department Chair.
3. The remainder of the Department Fund shall be dispersed for Costs of Operations (as hereinafter defined).

D. Costs of Operation.

“Costs of Operation” will be determined on a department-by-department basis and shall mean all costs for operation of the Plan within the respective Department, including, without limitation, the costs and expenses listed below:

- I) Payment of Committed Compensation and applicable fringe benefits costs of the Participating Providers;
- ii) Administrative costs, including patient billing and collection costs and costs of marketing and advertising, as approved by the Dean;
- iii) Malpractice insurance premiums attributable to performance of clinical services by Participating Providers;
- iv) Legal, consulting, accounting and management fees (including defense fees as described in Section VI.B. below);
- v) Space usage fees for the Faculty Practice Offices based upon the capital and operating costs of the Faculty Practice Offices.
- vi) Any personnel costs (including salary and fringe benefit costs) associated with operating the Faculty Practice Offices;
- vii) Operating costs, including the use of facilities and consumable supplies, associated with the performance of clinical services;
- viii) Refunds, as described in Section VI.C. below;
- ix) Other clinical practice expenses that are included in a clinical practice budget for the current year, as approved by the Steering Committee and the Dean.
- x) Allocated portion of administrative overhead as determined by the School of Medicine.
- xi) If the School of Medicine is requested or required to advance funds to cover Costs of Operations during any year and does so, then

repayment to the School of Medicine for such advances, plus interest at the School of Medicine's cost of funds;

- xii) Provided that Costs of Operation do not exceed revenues, payment of Variable Compensation and applicable fringe benefits costs of the Participating providers. Variable Compensation will be paid in accordance with the FPP Employment Agreement and reconciled monthly.

E. Remaining Surplus.

The remaining surplus ("Surplus") may be available as Incentive Compensation to the Participating Providers. Incentive Compensation shall be allocated to each Participating Provider based upon the amount of Surplus attributable to the performance of Clinical Services by each Participating Provider, in accordance with his/her Offer Letter, or, in the absence of a formula in his/her Offer Letter, as otherwise prescribed by the Department Chair.

F. Deficit.

If there are insufficient monies available in the Fund to pay the Costs of Operation ("Deficit"), the Deficit will be carried forward from year-to-year as Costs of Operation.

G. Fiscal Year.

The calculation of Surplus or Deficit shall be determined based on New York University's fiscal year as determined by the New York University Board of Trustees (the "Fiscal Year"). The School of Medicine shall perform an accounting of the Costs of Operation and sums received during the Fiscal Year within one hundred twenty (120) days of the end of the relevant Fiscal Year.

H. Budget.

An annual budget for operation of the Plan in each Department will be prepared by each of the respective Department Chairs and shall be submitted for approval to the Dean at least sixty (60) days prior to the start of each Fiscal Year to allow integration with the School of Medicine's Operation Budget preparation. Upon acceptance of the budget by the Dean such budget shall be binding upon the Participating Providers.

The books and records of the department relating to Clinical Services rendered by Participating Providers in the department shall be subject to audit by the School of Medicine, which may use internal or external auditors for this purpose.

Those costs associated with such audits shall be charged to the Fund.

VI. Billing and Records.

The billings for all Clinical Services shall be rendered in accordance with all applicable federal, state and local laws, rules and regulations. Clinical Services shall be provided and billing shall be performed in such manner as complies with requirements of the Medicare and Medicaid Programs, Empire Blue Cross and Blue Shield, Managed Care Companies that contract with the Participating Providers and other third party payors for payment of professional services of Participating Providers.

Each Participating Provider shall execute such documents required by such third party payors and by the School of Medicine.

A. Billing.

All billings shall be done by the School of Medicine or a third party billing vendor approved by the Dean. No Participating Provider shall contract with or engage a billing vendor on his or her own behalf, on the behalf of any group of Participating Providers or on behalf of the School of Medicine without the written approval of

the Dean. The School of Medicine and the Participating Providers shall provide any necessary documentation required by such payors.

B. Refunds.

In the event that any of such payors shall make a claim to the School of Medicine or the Participating Providers for a refund of amounts paid for Clinical Services rendered under the Plan, the School of Medicine shall defend such claim on behalf of the School of Medicine and the Participating Providers.

C. Defense of Claim for Refund.

The management of the defense of any such claim for a refund shall be solely at the discretion of the School of Medicine; however, the School of Medicine shall not abandon such defense or compromise such claim except upon the giving of prior written notice to the affected Participating Provider(s), who shall then have the right to undertake the defense of such claim at the expense of the Participating Provider(s).

D. Payment of Refund.

In the event the claim is decided or settled in whole or in part in favor of the payor, the School of Medicine shall make such repayment to the third party payor and work out a schedule and methodology for repayment.

When it is determined that a Participating Provider has acted illegally or fraudulently with respect to the rendition of or billing for Clinical Services, the School of Medicine shall be entitled to seek full reimbursement from the Participating Provider, or shall have the right to withhold sums due to the affected Participating Provider under the Plan until all required refund amounts have been paid.

E. Records.

All medical, financial and other records relating to patients of the Participating Providers are the property of the School of Medicine, including, but not limited to, patient records, charts, case histories, x-ray films and billing and payment histories, except that medical records generated by any Participating Provider prior to his/her participation as a Participating Provider of the Plan shall be the property of such Participating Provider. The School of Medicine shall be entitled to a copy of records for those patients who continue to be patients of the Participating Provider after commencement of such Participating Provider's participation in the Plan.)

VII. Professional Liability Insurance.

Participating Providers will be covered by individual practitioner's professional liability insurance purchased for the Participating Provider. Such insurance will provide coverage only for medical incidents occurring as a function of Clinical Services rendered by the Participating Provider as a Participating Provider of the Plan.

VIII. Termination.

A. Individual Participating Provider.

1. Unless otherwise stated in a Participating Provider's Offer Letter, a Participating Provider's participation in the Plan may be terminated without cause by the Dean, upon the recommendation of the Department Chair, upon no less than ninety (90) days' prior written notice to the Participating Provider.
2. A Participating Provider may terminate his/her participation in the Plan by giving no less than ninety (90) days' written notice to the Dean.

3. A Participating Provider's participation under the Plan may be terminated at any time by the mutual agreement of the School of Medicine and the affected Participating Provider.

B. Automatic Termination.

A Participating Provider's participation in the Plan shall be terminated automatically upon the occurrence of any of the following:

1. Suspension, limitation, or revocation of his/her license to practice medicine in the State of New York or the expiration of his/her New York Department of Education registration;
2. Exclusion or suspension from the Medicare or Medicaid program;
3. Resignation, termination, suspension, or non-renewal of faculty appointments in the School of Medicine;
4. Termination from the Medical Staff of any Hospital with which the School is affiliated;
5. Determination that Participating Provider has engaged in undisclosed or unapproved professional activities outside of the Plan;
6. Retirement, death or disability that prevents the Participating Provider from performing Clinical Services under the Plan; or
7. Failure or inability of the Participating Provider to qualify for professional liability insurance coverage under the insurance plan designated by the School of Medicine.

C. Effect of Termination.

Upon termination, a Participating Provider shall be entitled to any compensation and benefits payable to such Participating Provider through the date of termination. A Participating Provider is not entitled to any other compensation or benefits following termination of employment.

IX. Non-Compete and Non-Solicitation.

Given the substantial financial resources committed by the School of Medicine to develop the Participating Providers' practices as participants in the Plan, the Dean may require a Participating Provider(s) to be subject to a prohibition on engaging in the office-based practice of medicine in the School of Medicine's geographic area should the Participating Provider's participation in the Plan terminate; in such case, a provision shall be included in the individual Participating Provider's Offer Letter. In the absence of such provision, a Participating Provider shall not be subject to a geographic prohibition after termination of his/her participation in the Plan.:

B. During and after participation in the Plan, a Participating Provider shall not solicit business which knowingly disturbs, or could be expected to disturb, the existing professional or business relationships of the School of Medicine or any School of Medicine entity with any patient, health care provider or referral source.

X. Amendments.

This Plan may be amended upon the recommendation of the Dean with approval of the Board of Trustees of New York University.

XI. Interpretation.

To the extent there is any inconsistency between the Plan and any terms of an individual Offer Letter (and Schedules thereto), the terms of such offer Letter shall prevail with respect to such Participating Provider.