



## **UPDATE TO ACP POLICY REGARDING THE IN-OFFICE ANCILLARY SERVICES EXCEPTION**

ACP supports the continuation of the In-Office Ancillary Services (IOAS) exception under the Stark Self-Referral laws with appropriate safeguards to address concerns over physician ownership interests potentially contributing to unnecessary utilization. ACP recognizes that this exception enables physicians to provide convenient, onsite access to designated healthcare services (DHS) to their patients and better ensures patient adherence to recommended treatments. The exception also provides a structure that allows for increased quality oversight by the ordering physician, better care-coordination, and the potential for the provision of lower cost care compared to alternative settings (e.g. hospitals). On-site availability of laboratory, diagnostic and other services is consistent with the principles underlying Patient-Centered Medical Homes, which call for “enhanced access to care” that is “facilitated by registries, information technology, health information exchange, and other means to assure that patients get the indicated care when and where they need and want it.”<sup>i</sup>

The College also is aware of substantial correlational data associating physician ownership interests in referred to DHS facilities with higher, unnecessary utilization, although this does not necessarily mean that overutilization occurs in all or most physician-owned DHS facilities.<sup>ii iii iv v</sup> The large number of studies reflecting this association provides adequate support for the College to update policy to support efforts to minimize the likelihood of ownership interests contributing to inappropriate and /or unnecessary referrals. Inappropriate or unnecessary utilization have also been associated with diagnostic facilities owned by hospitals--contributing to what some have called a competitive “arms race” between hospitals trying to gain a competitive advantage by offering ever more advanced imaging services.<sup>vi vii viii</sup> The preeminent public policy goal should be to make services as accessible and convenient to patients as possible, while having safeguards to ensure appropriateness of the services offered—regardless of the setting or ownership arrangement.

Therefore, ACP supports efforts by the Secretary to engage in the following specific and related processes to minimize the likelihood of ownership interests contributing to inappropriate and /or unnecessary referrals:

- monitor utilization of high cost/high frequency diagnostic tests and procedures in practices where physicians own their own facilities,
- provide timely educational feedback to such practices regarding utilization of defined high cost/high frequency diagnostic tests or procedures compared to practices that do not have an ownership interest in such facilities.

- **Develop procedures with input from all relevant stakeholders and through use of the Notice of Proposed Rulemaking (NPRM) process to address those practices that remain outliers after receiving educational feedback for a suitable amount of time. Such procedures may include use of appropriate use criteria, prior authorization requirements or similar processes. Any procedures used should include an appeal and exception process for those practices who believe their specific patient population or other circumstances supports their continued outlier pattern of use.**

**In all efforts by the Secretary to minimize the likelihood of ownership interests contributing to inappropriate and /or unnecessary referrals, the administrative burden on practices should be taken into consideration. In addition, efforts should be made to ensure that any administrative burden placed on practices does not interfere with delivering high quality, efficient patient care.**

**In addition, the College supports further development by national medical societies of appropriate use criteria to help ensure that diagnostic testing and other procedures are necessary and appropriate for an individual patient's clinical condition, under all ownership arrangements. Initial emphasis for this effort should be placed on high cost elective services. Physicians should be encouraged by their professional associations to consult such appropriate use criteria when available.**

**The College further reaffirms its support for a transition from the current system that pays physicians mostly based on how many procedures or visits performed (traditional Fee-For-Service), to models that align payments with the value of the care provided (e.g. shared savings programs, bundled payments, patient-centered medical home, capitation). These models may remove the incentive for overutilization by placing the practice at financial risk for the services offered (although *under-utilization* may be a concern in such arrangements). Practices providing services within such at-risk payment models should be excluded from the monitoring procedures described above.**

(Approved by BOR, November, 2014)

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<sup>i</sup> NCQA Patient Centered Medical Home (PCMH) Standards and Guidelines

<sup>ii</sup> GAO. Action Needed to Address Higher Use of Anatomic Pathology Services by Providers Who Self-Refer. <http://www.gao.gov/assets/660/655442.pdf>

<sup>iii</sup> GAO. Higher Use of Advanced Imaging Services by Providers Who Self-Refer Costing Medicare Millions. <http://democrats.energycommerce.house.gov/sites/default/files/documents/GAO-Medicare-Advanced-Imaging-Self-Referrals-2012-9-28.pdf>

<sup>iv</sup> Mitchell J. Urologists' Use of Intensity-Modulated Radiation Therapy for Prostate Cancer N Engl J Med 2013; 369:1629-1637 October 24, 2013 DOI: 10.1056/NEJMsa120114. <http://www.nejm.org/doi/full/10.1056/NEJMsa1201141>

<sup>v</sup> Lungren M. Amrhein T et al. Physician Self-Referral: Frequency of Negative Findings at MR Imaging of the Knee as a Marker of Appropriate Utilization Radiology, 2013, Vol.269: 810-815, 10.1148/radiol.13130281. <http://pubs.rsna.org/doi/abs/10.1148/radiol.13130110>

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<sup>vi</sup> Marketing, Imaging Wars. Media Health Leaders, June 11, 2009.

[http://www.healthleadersmedia.com/content/234366/topic/WS\\_HLM2\\_MAG/Marketing-Imaging-Wars.html](http://www.healthleadersmedia.com/content/234366/topic/WS_HLM2_MAG/Marketing-Imaging-Wars.html)

<sup>vii</sup> Changes in Hospital Competitive Strategy: A New Medical Arms Race? Health System Change, 2003.

<http://hschange.org/CONTENT/530/530.pdf>

<sup>viii</sup> Time Magazine, The Hospital Wars. <http://kansasheart.com/2006/12/the-hospital-wars/> Accessed 29 of September 2014 at <http://kansasheart.com/2006/12/the-hospital-wars/>