

July 29, 2013

Dear [REDACTED]

The purpose of this communication is to provide Ascension Health's position regarding physician-owned distributor(s) ("POD(s)") in the attached document containing Ascension Health's Position on Physician-Owned Distributors and to request confirmation from your organization that it is not a POD as defined by the Office of Inspector General ("OIG") and that it does not utilize PODs as distributors of products and/or services to our Participants.

Please submit a confirming statement from your organization to verify that the company is not a POD and that it does not utilize PODs as distributors of products and/or services to our Participants. Formal confirmation should be communicated via email to Mike Elstro, Sourcing Manager, at michael.elstro@ascensionhealth.org. If your company is a POD or utilizes one or more PODs to service Participants of our organization, please contact Mike Elstro immediately and reference this memorandum.

Sincerely,



Michael D. Gray
Chief Strategy Officer
The Resource Group

Enclosure: Ascension Health's Position on Physician-Owned Distributors



TO: Suppliers

**FROM: Ascension
Ascension Health
Ascension Health Resource and Supply Management Group, LLC
("The Resource Group")**

DATE: July 29, 2013

RE: Ascension Health's Position on Physician-Owned Distributors

As the largest non-profit healthcare system in the United States, Ascension Health is dedicated to providing its patients safe and effective care, supporting the integrity of the U.S. healthcare system, and maintaining a commitment to purchasing the highest quality products and services at the best overall value. As a result, Ascension Health prohibits its affiliates and Health Ministries from purchasing items or services, including, but not limited to, pharmaceuticals, implants, instruments, and other devices from physician-owned distributors ("POD(s)") that are either owned or controlled by one or more physicians.

On March 26, 2013, the Office of the Inspector General ("OIG") released a special fraud alert ("Alert"), which focuses on the characteristics of PODs that the OIG believes pose the greatest risks of fraud and abuse and dangers to patient safety. This Alert reaffirms the OIG's longstanding belief that POD arrangements have a strong potential for improper inducements between and among the physician investors, the entities, the device vendors, and the device purchasers and, as such, should be closely scrutinized under the fraud and abuse laws, such as the Anti-Kickback Statute ("AKS") and Civil Monetary Penalties law ("CMP"). Penalties for violating AKS and CMP include felony conviction and criminal and/or civil fines. The Department of Health and Human Services may also exclude individuals or entities that violate these laws from participating in the Medicare and Medicaid programs.

Ascension Health has identified other legal and regulatory considerations that further create heightened concerns as they relate to purchase arrangements with PODS, including:

- The Federal Stark Law ("Stark"), given the U.S. Senate has requested Centers for Medicare and Medicaid Services ("CMS") to weigh in on the implications of POD arrangements under the Physician Payment Sunshine Act, the Patient Protection and Affordable Care Act, and Stark in reports from June 2011.
- The risks to a tax-exempt organizations under the Intermediate Sanctions Law, Section 4958 of the Internal Revenue Code, under which the Internal Revenue Service can impose sanctions on an "Excess Benefit Transaction" that involve "Disqualified Persons," such as a physician.
- Conflicts of interest policies, which may be implicated by POD arrangements and would be subject to ongoing compliance review by a hospital or health system.

Given OIG's recent confirmation of its continued concerns regarding the fraud and abuse dangers of PODs, OIG's intent to continue monitoring these relationships based on the 2012 and 2013 OIG Work Plans, the U.S. Senate's request for additional review of PODS by CMS, and the risks related to tax-exempt status and conflicts of interest, Ascension Health has determined that it will not purchase from or contract with PODs, directly or indirectly, for itself or on behalf of its affiliates and Health Ministries.