



Policy Name: Prohibition Against Doing Business with Any Ineligible Persons	
Policy Owner: Texas Health Chief Compliance Officer	Effective Date: 07/25/2022
Approved By: System Leadership Council	Last Reviewed Date: 08/16/2023
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1.0 Scope:

1.1 Applicable Entities:

This policy applies to:

- Texas Health Resources (Texas Health) and its member entities
- Texas Health Behavioral Health Virtual Visit
- Excludes the Texas Health joint venture entities (except those listed in the Formulation and Adoption of System-Wide Policies and Procedures in Section 4.1.6 or in Section 4.1.7)

1.2 Applicable Departments:

This policy applies to all Texas Health departments.

2.0 Purpose:

- 2.1** To provide that Texas Health will not employ, contract with or do business with any person or entity ineligible to participate in Federally Funded Health Care Programs.
- 2.2** References to third party sources and resources are intended for informational purposes only and not as procedural mandates.

3.0 Policy Statement(s):

- 3.1** Texas Health will not knowingly employ, contract, provide items or services at the direction or prescription of, or otherwise do business with any Ineligible Person.
- 3.2** If Texas Health has notice that an employed or contracted screened person has become an Ineligible Person (or the subject of a proposed debarment or exclusion) Texas Health will remove the person from direct responsibility for or involvement in any federally funded health care program. If resolution results in conviction, debarment or exclusion of the individual or entity, Texas Health must immediately cease business relationships with that Ineligible Person
- 3.3** If Texas Health has notice that a screened person who is a member of the medical or allied health staff of one of its hospitals or other facilities has become an Ineligible Person, Texas Health will refer that physician or practitioner for review pursuant to the facilities medical staff by laws. Texas Health will ensure that it does not submit claims for any services provided, ordered or referred by such Ineligible Person.

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4.0 Policy Guidance:

4.1 Required Disclosure to Texas Health

4.1.1 Prospective employees, current employees, board members, volunteers, medical staff members, allied health professionals, students, vendors and contractors must promptly disclose any debarment, exclusion or any other event that makes the individual or the entity ineligible to participate in Federally Funded Health Care programs (i.e., an Ineligible Person) or the commencement of an investigation that could lead to debarment or exclusion.

4.2 Effect of Exclusion from Federally Funded Health Care Programs

4.2.1 Program payments will not be made by Medicare, Medicaid or any other Federally Funded Health Care program for any item or service furnished, ordered or prescribed by an excluded individual or entity during the exclusion period. *NOTE: There is a limited exception to exclusions for the provision of certain emergency items or services not provided in a hospital emergency room (reference 42 CFR 1001.1901).* This payment prohibition applies to all methods of Federal program reimbursement, whether payment results from itemized claims, cost reports, fee schedules or a prospective payment system. Further, the prohibition also extends to payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Federal program beneficiaries. For example, this would include payment of the salary for a billing employee who had been excluded.

4.2.2 Program payment prohibition applies to the Ineligible Person, anyone who employs or contracts with the Ineligible Person, any hospital or other provider where the Ineligible Person provides services, and anyone else involved directly or indirectly. Additionally, the payment prohibition applies to any business or facility (e.g., hospital) that submits claims for payment of items or services provided by the Ineligible Person.

4.3 Monthly Exclusion Screening Processes

4.3.1 Texas Health will review the following sources to determine whether its board members, volunteers, employees, vendor/contractors, physicians on the medical staff at Texas Health hospitals, referring physicians, allied health professionals and other identified persons (as applicable) are Ineligible Persons.

- a. List of Excluded Individuals/Entities (LEIE) – The LEIE is a listing maintained and published periodically by the Department of Health and Human Services, Office of Inspector General (OIG) that provides information relating to parties (individuals, entities) who are currently excluded from participation in Medicare, Medicaid and all other Federal health care programs. Individuals and entities who have been reinstated are removed from the LEIE. It includes only exclusion actions taken by the Office of Inspector General (OIG). The LEIE is an online searchable and downloadable database that may be accessed at the OIG website: https://oig.hhs.gov/exclusions/exclusions_list.asp.

- b. General Services Administration (GSA) System for Award Management (SAM) – The SAM is the electronic version of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs that is maintained and published periodically by the GSA. SAM identifies those parties (individuals, entities, contractors) that are excluded throughout the U.S. Government from receiving Federal contracts or certain subcontracts, and from certain types of financial and non-financial assistance and benefits. SAM includes debarment actions taken by various Federal agencies, but not necessarily those taken by the OIG. SAM is an online searchable and downloadable database that may be accessed at the GSA's System for Award Management website: <https://sam.gov/content/exclusions>

- c. States Health and Human Services Commission (HHSC) – Office of Inspector General (OIG) Exclusion List – Each individual State's OIG maintains an exclusion list and identifies those parties (individuals, entities, contractors) that are excluded from billing or otherwise requesting or receiving payment for any Title V, XIX, or XX, or other HHS programs for items or services provided on or after the effective date of the exclusion. Exclusion also prevents the excluded person from providing any services pursuant to the Medicaid program, whether or not the party directly requests Medicaid program payment for such services.

States are required to terminate the participation of any individual or entity if such individual or entity is terminated under Medicare or any other Medicaid State plan. The requirement for termination based upon a termination in another program is limited to those instances where providers, suppliers, or eligible professionals are terminated or had their billing privileges revoked based on fraud, integrity, or quality.

4.4 Responsibility for Ineligible Person Screening Processes

4.4.1 The following parties (i.e., personnel/departments) are responsible for performing the Texas Health exclusion screening processes:

- a. Board Member Screening – Screening of board members and prospective board members will be conducted by the Texas Health Governance department.
- b. Employee and Volunteer Screening – Screening will be conducted at the System level by System Compliance, in collaboration with Human Resources for all current volunteers, employees and prospective employees. Contractors who are included in the Texas Health PeopleSoft system will also be included in this screening process.
- c. Vendor/Contractor Screening – Screening will be conducted at the System level by Supply Chain Management for all Texas Health current and prospective vendors/contractors. Texas Health MedSynergies, Inc. (THM) Accounts payable department is responsible for screening all Texas Health Physician Group current and prospective vendors/contractors.
- d. Medical Staff Screening – Screening of physicians and other practitioners who are on the medical staffs at Texas Health entities will be performed by Texas Health System Compliance in collaboration with entity Medical Staff office personnel.

4.5 Monthly Screening Procedures for Board Members, Employees, Vendors, Contractors, Volunteers, Allied Health Professionals and Medical Staff

4.5.1 The Texas Health System Compliance Office will supply detailed information and instructions to all parties responsible for monthly screening.

4.5.2 If during the screening process, a Texas Health employee, vendor, volunteer, contractor, physician or other screened person is identified as a possible Ineligible Person, the Texas Health System Compliance Office must be contacted immediately. The Texas Health System Compliance Office will verify whether the possible Ineligible Person is actually an Ineligible Person and provide additional guidance at that time.

- a. Any employee, vendor, contractor, or other screened person who is the subject of a criminal investigation or proposed debarment or

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exclusion will be removed from direct responsibility for or involvement in Texas Health programs until resolution of such criminal charges or proposed debarment or exclusion. If a medical staff member is the subject of a criminal investigation or proposed debarment or exclusion, the Hospital shall refer the physician to the medical staff for review in accordance with the medical staff bylaws.

- b. If any employee, vendor, contractor, medical staff member or other screened person who is convicted, debarred, excluded or otherwise becomes ineligible for participation in federal health care programs, Texas Health will take immediate action to terminate employment, contracting or other business relationship with the individual or the entity.
- c. In the event an employee, vendor, contractor, medical staff member or other screened person is confirmed to be an Ineligible Person during the screening process, the Texas Health Chief Compliance Officer will immediately be notified and all appropriate corrective action will be taken in coordination with Texas Health Legal Counsel. Such actions may include adjustment of cost reports, notice to governmental agencies, refund of healthcare payments and/or other actions as appropriate based upon the facts and circumstances.
- d. Each month, each Texas Health employees responsible for carrying out the monthly screening process (LEIE, SAM and Texas HHSC- OIG List) must submit documentation to the Texas Health System Compliance Office confirming that the screening process has been accomplished. This written notification to the System Compliance Office is required regardless of whether or not any possible Ineligible Person(s) was identified.

4.6 Screening Procedure for Prospective Board Members, Volunteers, Employees, Vendors, Contractors, Allied Health Professionals, Medical Staff or Other Persons Who Seek to do Business with Texas Health

- 4.6.1 All candidates for board positions, volunteer positions, employment, contracting, or appointment to a medical staff must be screened against the LEIE, SAM and Texas HHSC – OIG exclusion lists prior to hiring, contracting or appointment as a part of the standard Texas Health processes for these types of relationships.

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4.6.2 Texas Health will not hire, contract with, do business with or appoint to a medical staff any Ineligible Person until the exclusion is resolved and it is clear the individual or entity is no longer excluded or debarred.

4.7 Denial by Screened Person

4.7.1 If the screened person denies any material finding of exclusion or debarment, further investigation will be initiated. The subject of the investigation may provide documentation indicating that he/she/it is not excluded or that reinstatement has been granted. The subject may also submit a sworn affidavit that he/she/it is not the Ineligible Person that appears on the exclusion list(s). The Texas Health Chief Compliance Officer will evaluate and coordinate with Legal Services as needed. After the investigation is complete, a response will be provided to the individual within a reasonable period of time.

4.8 Periodic Review of Screening Processes

4.8.1 The Texas Health System Compliance Office will periodically review exclusion screening processes to determine if this policy is being followed.

5.0 Definitions:

5.1 Exclusion - Exclusion refers to the temporary or permanent debarment of an individual or entity from participation in any Federal health care program. Items or services furnished by any such person or entity will not be reimbursed under any Federal or State health-related program.

5.2 Federally Funded Health Care Program - Any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the U.S. Government or a State health care program (except for the Federal Employees Health Benefit Program).

5.3 Ineligible Person - For purposes of this policy, an ineligible person is any individual or entity that: (1) is currently excluded, suspended, debarred, or ineligible to participate in any Federal funded program; or (2) has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in a Federal funded program after a period of exclusion, suspension, debarment, or ineligibility.

5.4 Reinstatement - Reinstatement refers to individuals or entities that have completed the exclusion period and have been reinstated as eligible to participate in Federal funded programs.

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6.0 Responsible Parties:

- 6.1 Texas Health Chief Compliance Officer
 - 6.1.1 Responsible for oversight of this policy and the processes necessary to carry out the policy.
 - 6.1.2 Responsible for oversight of any corrective action necessary as a result of identifying any Ineligible Person.
- 6.2 Texas Health Human Resources
 - 6.2.1 Responsible for collaboration with System Compliance regarding the monthly and periodic screening of volunteers, employees, prospective employees and contractors who are included in the Texas Health PeopleSoft system.
 - 6.2.2 Responsible for the pre-hire screening of all workforce members.
- 6.3 Texas Health Supply Chain Management
 - 6.3.1 Responsible for screening of all Texas Health current and prospective vendors and contractors.
- 6.4 Texas Health Entity Medical Staff Offices
 - 6.4.1 Responsible for collaboration with System Compliance regarding the screening of medical staff members and other credentialed practitioners.
- 6.5 Texas Health Governance
 - 6.5.1 Responsible for screening of board members.

7.0 External References:

- 7.1 System for Award Management (formerly Excluded Parties List System or EPLS) on sam.gov website: <https://sam.gov/content/exclusions>
- 7.2 List of Excluded Individuals/Entities (LEIE) on OIG website at <https://exclusions.oig.hhs.gov/>.
- 7.3 OIG Compliance Program Guidance for Hospitals (February 23, 1998) and OIG Supplemental Compliance Program Guidance for Hospitals (January 31, 2005).
- 7.4 OIG Special Advisory Bulletin on The Effect of Exclusion From Participation In Federal Health Care Programs (September, 30 1999).
- 7.5 Texas Health and Human Services Commission (HHSC) – Office of Inspector General (OIG) Exclusion List on <https://oig.hhs.texas.gov/exclusions>

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7.6 Affordable Care Act Program Integrity Provisions – Guidance to States, Section 6501 – Termination of Provider Participation under Medicaid if Terminated under Medicaid or other State Plan.

8.0 Related Documentation and/or Attachments:

8.1 Accepting Orders for Hospital Outpatient Services from Non-Privileged Practitioners – Texas Health System Policy

8.2 [Background Check - THR System Policy](#)

8.3 Clearance Level for Contractors Policy

8.4 [Licensure, Certification, and Registry - THR System Policy](#)

8.5 Office of Inspector General Compliance Guidance for Hospital

8.6 [Performance Management \(formerly Progressive Corrective Action\) - THR System Policy](#)

9.0 Required Statements

Not Applicable