

## GROUP PRACTICE INFORMATION FORM: CMS-10328

**The Group Practice Information Form should be completed only by physician practices consisting of at least two physicians (referred to herein as practices) that are reporting noncompliance with the physician self-referral law arising from the failure to qualify as a group practice under § 411.352.** That is, if a practice sought to qualify as a group practice under § 411.352 in order to use the physician services exception at § 411.355(a) or the in-office ancillary services exception at § 411.355(b), but these exceptions were unavailable to the practice because it failed to meet one or more requirements in § 411.352, the noncompliance should be reported using this form.

If all the noncompliance being reported by the practice arose from the failure of the practice to qualify as a group practice under § 411.352, do not complete Physician Information Forms for each physician in the practice who made prohibited referrals to the practice. Section II of the Group Practice Information Form below collects all necessary information about the individual physicians who made prohibited referrals to the practice.

The Group Practice Form should not be used to report noncompliance arising solely from the failure of an entity to satisfy all the requirements of an applicable exception in § 411.355, including the exception for physician services at § 411.355(a) and the exception for in-office ancillary services at § 411.355(b). For example, a physician practice that qualified as a group practice under § 411.352 but failed to satisfy all the requirements of the in-office ancillary services exception at § 411.355(b) should continue to use the SRDP Disclosure Form and separate Physician Information Forms for each physician in the practice who made prohibited referrals. Likewise, the Group Practice Information Form should not be used by the medical practice of a physician in solo practice to report the failure to satisfy all the requirements of the in-office ancillary services exception at § 411.355(b).

### I. FAILURE TO QUALIFY AS A GROUP PRACTICE UNDER § 411.352

#### A. Narrative Explanation

##### 1. Nature of noncompliance

Identify each requirement in § 411.352 that the practice failed to satisfy and explain why the practice failed to satisfy the requirement. (Note, it is not necessary to identify or explain which of the requirements in § 411.352 that the practice satisfied.) With respect to each requirement in § 411.352 that the practice failed to satisfy, the explanation of noncompliance must at a minimum address the following:

##### § 411.352(a) Single legal entity

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(a).

##### § 411.352(b) Physicians

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(b).
- How many members (that is, physician owners and employees) were in the practice?

##### § 411.352(c) Range of care

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(c).
- Please identify how many of the members of the practice (as an absolute number and percentage of the number of members of the practice) failed to furnish substantially the full range of patient care services that the physician routinely furnishes.

**For example:** 2 of the 12 members of the practice (16.7%) did not furnish substantially the full range of patient care services that the physicians routinely furnish.

##### § 411.352(d) Services furnished by group practice members

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(d).
- What percentage of the total patient care services of the physicians who were members of the practice were:
  - Furnished through the practice?
  - Billed under a billing number assigned to the practice?
  - Treated as receipts of the practice?
- If applicable, please identify the "start up period" described in § 411.352(d)(5) or the date that a new member was added to the practice as described in § 411.352(d)(6).

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**§ 411.352(e) Distribution of expenses and income**

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(e).

**§ 411.352(f) Unified business**

- Please describe the specific circumstances of the practice's failure to satisfy the requirement at § 411.352(f).
- Please provide detailed information regarding the governance of the practice; billing, accounting, and financial reporting; operational control and oversight; and whether the practice incorporated location or specialty-based compensation practices.

**§ 411.352(g) Volume or value of referrals & § 411.352(i) Special rules for profit shares and productivity bonuses**

- Please describe the specific circumstances of the practice's failure to satisfy the requirements at § 411.352(g), taking into account the application of the special rules at § 411.352(i).

***For example:** Certain members of the practice received productivity bonuses that took into account referrals for designated health services that were neither personally performed by the physicians nor incident to the physician's personally performed services and the productivity bonuses did not meet the conditions of the special rules at § 411.352(i).*

- If the practice relied on one or more of the deeming provisions at § 411.352(i) to satisfy the requirement at § 411.352(g), but failed to satisfy the conditions of the relevant deeming provision, please describe the specific circumstances of the practice's failure to satisfy the relevant deeming provision in § 411.352(i) and provide the additional information as requested. (Note that citations to § 411.352(i) below refer to provisions of § 411.352(i) as re-organized in the final rule, Modernizing and Clarifying the Physician-Self Referral Regulations, 85 FR 77492 (Dec. 2, 2020)).

**§ 411.352(i)(1)(ii)**

- If the practice's distribution of overall profits failed to comply with the condition at § 411.352(i)(1)(ii) because the practice distributed profits to components with fewer than five physicians (and the practice consisted of more than five physicians), explain how the physicians in the practice were grouped for purposes of profit distribution and provide the following:
  - The total number of components of the practice that received distributions of overall profits;
  - The number of components with fewer than five physicians that received distributions of overall profits, and the number of physicians in each such component; and
  - The total profits of the practice and the percentage of profits distributed to components with fewer than five physicians.
- If, after January 1, 2021, the practice failed to comply with the requirement at § 411.352(i)(1)(ii) because profits from all designated health services of the component (which may include all physicians in the practice) were not aggregated prior to distribution, please provide details on the distribution of profits from designated health services in each affected component (or the entire practice, if multiple components did not exist).

**§ 411.352(i)(1)(iii)(C) or § 411.352(i)(2)(ii)(C)**

- If the practice relied on the deeming provisions at § 411.352(i)(1)(iii)(C) or § 411.352(i)(2)(ii)(C) to ensure compliance with the requirement at § 411.352(g), but failed to meet the conditions of the deeming provision because revenues derived from designated health services were 5 percent or more of the practice's total revenues, or the portion of those revenues distributed to any physician in the practice exceeded 5 percent of his or her total compensation from the practice, provide the following information:
  - The percentage of the practice's total revenues derived from designated health services;
  - The total number of physicians in the practice; and
  - The number of physicians in the practice who received distributions of revenues from designated health services that exceeded 5 percent of their total compensation from the practice, and the amount by which the 5 percent limit was exceeded for each such physician.

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#### § 411.352(i)(2)(i)

- If the practice failed to qualify as a group practice under § 411.352 because physician(s) in the practice received productivity bonuses based on services not personally performed by the physician(s) or services not “incident to” such personally performed services, please describe the methodology used to calculate physician productivity bonuses and provide the following information to the extent it is available.
  - **Number of designated health services CPT/HCPCS codes:**
    - The total number of unique designated health services CPT/HCPCS codes billed by the practice; and
    - The number of designated health services CPT/HCPCS codes for which physician(s) received productivity bonuses that were neither personally performed by the physicians nor services “incident to” such personally performed services.
  - **Revenues derived from designated health services:**
    - The practice’s total revenues derived from designated health services; and
    - The revenues derived from designated health services for which physician(s) received productivity bonuses that were neither personally performed by the physicians nor services “incident to” such personally performed services.
  - **Number of affected physicians in the practice:**
    - The total number of physicians in the practice; and
    - The number of physicians who received productivity bonuses based on services that were neither personally performed by the physician(s) nor services “incident to” such personally performed services.

**For example:** During the period of noncompliance, the practice billed Medicare for 20 different CPT/HCPCS codes that represent designated health services. The practice paid physicians productivity bonuses based on 3 CPT/HCPCS codes for designated health services that were neither personally performed by the physicians nor services “incident to” the physicians’ services (that is, revenues from the 3 CPT/HCPCS codes were “allocated” directly to the physicians). The total revenue derived from designated health services during this period was \$250,000. The total revenue derived from the 3 improperly allocated designated health care service CPT/HCPCS codes was \$75,000. There were 10 physicians in the practice during the period of noncompliance; 2 of these physicians received productivity bonuses based on services that were neither personally performed nor “incident to” the physicians’ personally performed services.

#### § 411.352(h) Physician-patient encounters

- Please describe the specific circumstances of the practice’s failure to satisfy the requirement at § 411.352(h).
- Please provide the percentage of the physician-patient encounters of the practice that were personally conducted by members of the practice.

**NOTE: The practice must either (a) certify noncompliance with the physician self-referral law, or (b) state that, because it cannot confirm that the physician practice satisfied all requirements to qualify as a “group practice” for purposes of the physician self-referral law, it is certifying noncompliance with the law.**

Provide the required information on the next page.

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Nature of noncompliance

Attach additional pages if necessary.

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**2. Method of cure or termination**

If the noncompliance arising from the failure to qualify as a group practice under § 411.352 was ongoing at the time the practice discovered the noncompliance, explain the steps that the practice took to either bring the practice into compliance with the group practice requirements at § 411.352 or otherwise terminate the underlying financial relationships.

If the noncompliance arising from the failure to qualify as a group practice under § 411.352 had ceased prior to the discovery of the noncompliance, state when the noncompliance ceased and the circumstances under which the noncompliance ceased.

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Method of cure or termination

Attach additional pages if necessary.

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## B. Relevant Dates

1. **Period(s) of noncompliance:** Provide the date range(s) of the noncompliance. The practice must provide a date range for the entire period of non-compliance, even if the noncompliance began prior to the 6-year lookback period.

2. **Date of discovery:** Provide the date that the practice determined that it received an overpayment because it failed to comply with the physician self-referral law. See § 401.305(a)(2).

## II. PHYSICIANS WHO MADE PROHIBITED REFERRALS TO THE PRACTICE

As a reminder, the Group Practice Information Form, including Section II, Physicians Who Made Prohibited Referrals to the Practice, may be used only by physician practices and only if the practice is reporting noncompliance arising from the failure of the practice to qualify as a group practice under § 411.352.

### A. Note on the effect of failing to qualify as a group practice under § 411.352

If a physician practice fails to qualify as a group practice under § 411.352, then the physician services exception at § 411.355(a) and the in-office ancillary services exception at § 411.355(b) are not available to protect referrals from any physician in the practice to the practice, regardless of whether the reason the practice failed to qualify as a group practice directly pertains to a particular referring physician. Therefore, for each physician in the practice who made referrals to the practice for designated health services, unless the services meet the requirements of another exception in § 411.355, or the financial relationship(s) between the practice and the physician satisfy all the requirements of an applicable exception in § 411.356 (for ownership or investment interests) or § 411.357 (for compensation arrangements), the physician is not permitted to make referrals for designated health services to the practice, and the practice is prohibited from billing Medicare for services furnished pursuant to prohibited referrals.

### B. Instructions

For each physician in the practice who made prohibited referrals to the practice during the applicable lookback period, please provide the requested information below. The worksheet should be submitted in Excel-compatible format; please lock the worksheet for editing before submitting. Note that, in addition to the information requested here, the practice must complete the Financial Analysis Worksheet. The practice has the option of submitting separate Excel-compatible spreadsheets, one containing the information requested below and one containing the information requested in the Financial Analysis Worksheet; alternatively, the practice may submit a consolidated Excel-compatible worksheet which includes the information requested below and the information requested in the Financial Analysis Worksheet.

Required information:

- Physician's name
- Physician's NPI
- Statement of whether the physician is an owner, employee, or independent contractor of the practice
- Statement of whether the physician received compensation that failed to comply with the volume or value of referrals requirement at § 411.352(g), taking into account the special rule for profit shares and productivity bonuses at § 411.352(i)
- Period of noncompliance (i.e., period during which the physician made prohibited referrals to the practice)