

**THE CHILDREN'S MERCY HOSPITAL
ADMINISTRATIVE POLICY**

TITLE: Gifts and Gratuities

EFFECTIVE: 02/08

REVISION DATE: 06/08, 3/17

REVIEWED WITH NO CHANGES: 11/13

RETIRED:

PURPOSE:

The giving and receiving of Gifts and gratuities in the health care setting can implicate certain federal and state laws, including but not limited to the Foreign Corrupt Practices Act, and the Anti-Kickback and Civil Monetary Penalties Statutes. Violations of such laws may result in significant fines, imprisonment and personal or Hospital exclusion from participation in federal and state reimbursement programs. In addition, the federal Physician Payments Sunshine Act requires drug and device companies to submit information on payments and transfers of value made to physicians and teaching hospitals. Such data is published and made available to the public on an annual basis. The Hospital requires that its business be conducted at all times in an ethical manner and in accordance with all applicable laws and regulations. This policy establishes the Hospital's policy and requirements concerning Gifts to and from outside entities including but not limited to Vendors, patients, families and other individuals. The term "Gift" as used in this policy is defined broadly to include any item of value. See the Definitions.

Both the PhRMA guidelines and the AdvaMed Code of Ethics define what is considered appropriate business practices between health care professionals and Vendors. In addition to these guidelines, the giving and receiving of Gifts to or from patients and their families can create additional compliance implications. Therefore, Gift items which may be given to or received from these individuals will be addressed in this policy to ensure compliance with ethical and legal requirements, including but not limited to prohibitions on patient inducement.

LOCATION/SCOPE: The Children's Mercy Hospital, Children's Mercy Hospital Kansas and all other locations (collectively, "Hospital").

DEPARTMENT RESPONSIBLE FOR POLICY MANAGEMENT & EXECUTION:

Corporate Compliance Department

POLICY STATEMENT:

This policy is intended to ensure that Staff understand and comply with legal and ethical limitations concerning Gifts. The standards listed below as well as the Hospital's Code of Conduct provide guidance in determining the appropriateness of the following activities within the context of the Hospital's relationships, including relationships with Vendors, families, patients and all other individuals and entities. Such interactions include the giving or receiving of any Gifts.

This policy will be construed broadly to avoid even the appearance of improper activity. If there is any doubt or concern as to whether specific conduct or activities are ethical, appropriate, or within the scope of

this policy, Staff should immediately contact his/her supervisor or the Corporate Compliance department. See Attachment A for Frequently Asked Questions related to this policy.

In addition, any entertainment or Gift involving physicians or other persons who are in a position to refer patients to Hospital facilities must be undertaken in accordance with Hospital policies, which have been developed consistent with federal and state laws, regulations, and rules regarding these practices. Staff must consult Hospital policies prior to extending any business courtesy to a potential referral source. When in doubt, Staff must consult with the Corporate Compliance department.

PROCEDURE:

I. Gifts from Patients or Family Members

- A. Staff are prohibited from soliciting or accepting tips, personal gratuities, or Gifts from patients and/or their family members, except as provided herein.
- B. Staff may never accept cash, cash equivalents (including Gift cards or Gift certificates) or financial instruments (e.g., checks, stocks) from patients and/or their families.
- C. If a patient or family wishes to donate money, he/she should be directed to the Philanthropy department. Individuals wishing to donate in-kind Gifts should be referred to the Volunteer Services department.
- D. Staff may accept Gifts that are of Modest value or perishable Gifts (e.g. food or flowers) from a patient and/or his/her family member(s) provided that the Gift is shared with all members of the department. Such Gifts must be displayed or shared with the department so that all Staff may enjoy the generosity.
- E. At no time may Staff accept Gifts from individuals which would result in an actual, potential or perceived conflict of interest in the performance of their required duties for the Hospital.
- F. Staff are also strictly forbidden to accept any form of payment from a patient and/or a family member for the performance of any hospital service.

II. Gifts to Patients or Family Members

- A. Individual Staff members are prohibited from purchasing or providing Gifts to patients and/or their family members.
- B. Giving Gifts may violate legal prohibitions on patient inducement. In addition, Gifts may create a dependence on Staff or the Hospital which cannot be sustained or provided for every patient of the Hospital.
- C. Should Staff choose to donate in-kind items for patient use such as clothes or other personal items, those Gifts must be coordinated through the Volunteer Services department.

- D. The Hospital Patient Inducement Policy outlines when the Hospital or the community may provide patients or families Gifts or services.
- E. A way to advocate for a patient's needs is by referral to the many resources of the Hospital. Consult social work who will complete a needs assessment and assist the parents with appropriate resources.

III. Gifts to or from International Patients or Family Members

- A. The Hospital recognizes that in certain countries or cultures outside of the United States it may be considered an insult if a Gift is not accepted when offered. Non-perishable Gifts greater than Modest value from patients or families that reside outside of the United States may be accepted, as deemed necessary under the circumstances. In such instances, the Gifts should be provided to Philanthropy. These Gifts may not be enjoyed by Staff or the department.
- B. Staff are prohibited from purchasing or providing Gifts to patients and/or their family members who reside outside of the United States. Giving of such Gifts or any item of value may be a violation of applicable law, including the Foreign Corrupt Practices Act.

IV. Vendor-Sponsored Entertainment/Meals/Travel

- A. The Hospital recognizes that occasionally a Vendor may invite Staff to an outside entertainment or restaurant venue. Staff may, with the approval or his/her manager, accept (i) reasonable business entertainment invitations, and/or (ii) travel (e.g., airfare, hotel) for the purpose of discussing bona fide matters relating to Hospital business or to receive educational information regarding Vendor items and/or products which may be used by the Hospital. With respect to travel, Staff may not accept direct payment from the Vendor. Instead, the Hospital the Vendor should directly arrange and pay for reasonable and necessary travel expenses or, in the alternative, reimburse the Hospital for such expenses.
 - 1. As a general rule, entertainment costs may not exceed \$150 per person, may occur only on an Occasional basis and may be attended only by Staff who have a Hospital-related business purpose to participate in the discussion at such an event.
 - 2. The annual value of such events may not exceed \$300 total per staff person (all vendors and other sources combined). If the cost exceeds the amounts stated above, prior approval must be obtained from the Corporate Compliance Officer.
 - 3. At no time may Staff accept invitations for entertainment which could be viewed as excessive (per event cost or number of occurrences/events) or influencing one's decision making responsibilities.
- B. CMH recognizes occasionally there may be times when a current or potential Vendor, including a potential referral source, may extend an invitation to attend a social event in order to further develop a business relationship.
 - 1. Staff may, with the approval or his/her manager, accept reasonable social event invitations for the purpose of discussing bona fide matters relating to Hospital

business or to receive educational information regarding Vendor items and/or products which may be used by the Hospital.

- C. Nothing in this policy is intended to prohibit the attendance of CMH spouses/partners at Vendor-sponsored events however, the cost of a spouse's/partner's participation in such activities, such as travel, lodging or entertainment shall not be at the expense of a Vendor or Hospital. In addition, spousal/partner participation at Vendor-sponsored meals on an Occasional basis will be allowable only with prior approval by the Staff member's department manager.
- D. Invitations from Vendors to CMH employees and including their spouses/partners to CMH philanthropic events, such as Red Hot Nights is allowed.

V. Workshops, Seminars and Training Sessions

- A. Staff may attend workshops, seminars, training, and educational sessions which are funded by Vendors and are provided at no cost to Staff or the Hospital when the following conditions are met:
 - 1. Vendors may pay for reasonable travel costs and accommodations for Staff when travel is necessary, strictly for bona fide educational purposes and conducive to the exchange of information according to the guidelines set forth in the AdvaMed Code of Ethics and American Medical Association Counsel on Ethical and Judicial Affairs. During these times Occasional hospitality in the form of Modest meals and receptions is acceptable. Staff should consult the Corporate Compliance department for assistance in determining those activities which are considered allowable.
 - 2. Acceptance of meals, hospitality, travel, lodging, or entertainment by anyone other than those Staff with a bona fide professional interest in the educational session is prohibited.
 - 3. An Educational Program must have documented objectives, an attendance roster, and must be at least one hour in duration.
 - 4. At no time may Staff agree to accept travel, accommodations or other arrangements which would be considered excessive or not for the primary purpose of education.
 - 5. During approved travel, Staff are prohibited from either participating in recreational activities or taking spouses/partners at the expense of a Vendor.

NOTE: Staff receiving compensation from an outside Vendor or other party with whom the Hospital has or may have a relationship must make the appropriate disclosure(s) as required by the CMH Conflict of Interest Policy.

VI. Gifts from Vendors

Staff may not solicit or accept any Gifts from Vendors, regardless of the value, except as set forth in this policy. If Staff are offered Gift(s) in excess of what is otherwise permitted under this policy, Staff may choose to accept such Gift(s) but must give the relevant Gift(s) to the Hospital's Philanthropy Department. Philanthropy will determine which Hospital activity/event such Gift(s) is to be allocated towards.

- A. Staff may occasionally receive Gifts from Vendors, but only if the item benefits patients, provides a genuine educational function, or assists Staff in the performance of their employment duties. Other than Gifts of medical textbooks, Gifts from Vendors must be limited to \$35 per occurrence and/or \$300 total for the year for each Staff member, for all Gifts from all Vendors combined. Staff may accept medical textbooks from Vendors which are in excess of the dollar limits listed above in the event that upon acceptance the textbooks become property of CMH.
- B. Hospital departments may receive Gifts from Vendors which are branded promotional materials. However, these items should be limited to \$35 or less per occurrence and \$750 total for the year per Vendor, and used for the Staff's work or of benefit to CMH patients.
- C. At no time may Staff receive cash and/or cash equivalents (e.g., checks, stocks, gift certificates) from Vendors.
- D. At no time may Staff accept medication samples for patient distribution, unless such practice is expressly allowed for in an applicable CMH policy. Formula and/or nutritional supplements may be accepted for limited patient distribution only. Staff may not request or accept medication samples, formula and/or nutritional supplements for personal use or benefit.
- E. Staff may not accept Gifts or compensation for attending marketing and/or informational presentations hosted by a Vendor.
- F. Staff may not accept Gifts or compensation for prescribing or changing a patient's prescription.
- G. Staff must consciously and actively separate and isolate clinical care decisions from any perceived or actual benefits expected from any Vendor. It is unacceptable for patient care decisions to be influenced by the possibility of personal financial gain.
- H. Staff may, with the approval of his/her manager, receive perishable or consumable items that are given by a Vendor. All other perishable items must be received only on an Occasional basis, be of Modest value, shared, consumed or enjoyed by staff while at work and cannot be accepted if they could cause any conflict or the appearance of a conflict of interest.
- I. It is unacceptable for Staff to solicit Gifts from Vendors for social events such as a holiday party or professional week celebration.
- J. If a Vendor wishes to donate money or Gifts in-kind, he/she should be directed to the Philanthropy department or Volunteer department.

VII. Gifts to Federal or State Employees or Employees of Fiscal Intermediaries

- A. Staff may not provide any Gift to any employee of a local, federal or state government agency or to an employee of a fiscal intermediary, except for minor refreshments of nominal value (such as coffee) provided at a meeting in a Hospital facility in connection with business discussions, unless approval has been obtained from the Compliance Officer.

IX. Management and Monitoring of Gift and Gratuities Practices

- A. Nothing in this policy shall prohibit a supervisor or manager from establishing more stringent rules related to the giving or acceptance of Gifts by his/her Staff. It is the responsibility of each manager or supervisor to ensure that the guidelines outlined within this policy are adhered to. Supervisors and managers are responsible for instituting appropriate employee disciplinary procedures should policy violations occur. See Attachment A for Frequently Asked Questions related to this policy.

DEFINITIONS:

AdvaMed means the Advanced Medical Technology Association Code of Ethics on Interactions with Health Care Professionals as approved on September 3, 2003. The Code was intended to encourage members to engage in ethical business practices and develop a socially responsible industry conduct related to their interactions with health care professionals. Members of the association also respected the obligation of health care professionals to make independent decisions regarding medical technology products. Consequently, AdvaMed adopted this voluntary Code of Ethics, effective January 1, 2004, to facilitate members' ethical interactions with those individuals or entities that purchase, lease, recommend, use, arrange for the purchase or lease of, or prescribe members' medical technology products in the United States.

References to Bona Fide business or educational purposes mean meetings, activities or programs which relate to Hospital business or which are designed to provide information, knowledge and education regarding a specific subject or topic in furtherance of the Hospital's purposes.

Entertainment means a venue where an event is happening, especially an organized event such as a concert, sporting competition or event.

Gifts means all items, including but not limited to money, gift cards, securities, transportation, meals, office supplies (i.e. pens, notepads), promotional items (hats, mugs), educational items (textbooks, models), flowers, clothes, travel accommodations, venue tickets, entertainment, and any other items of value.

Modest means of moderate or low value (usually less than \$35).

Occasional means infrequent and non-routine.

PhRMA means the Compliance Program Guidance for Pharmaceutical Manufacturers developed by the Office of Inspector General (OIG) as published in the Federal Register, Volume 68, Number 86, published on May 5, 2003. Through this notice, the OIG set forth its general views on the value and fundamental principles of compliance programs for pharmaceutical manufacturers, including the relationships pharmaceutical manufacturers should establish with health care organizations. Specifically of interest are

the relationships which pharmaceutical manufacturers may have with individuals in a position to influence or make referrals, those in decision making roles and others in position to receive items which may influence or have the appearance of influencing business decisions.

Staff means all Children’s Mercy Hospital (Hospital) administrative staff, managers, employees, allied health professionals, nursing, medical staff members, residents, fellows, volunteers and students.

Vendor means any entity, including any employee, agent or representative of an entity, that the Hospital currently does or may do business with. For example, this includes industry representatives, pharmaceutical representatives, consultants, advisors, experts, and all other individuals with an actual or potential business relationship with CMH.

REQUESTS FOR DEVIATION FROM POLICY: Requests for deviation from this policy will be directed to the Administrative Council Sponsor.

RELATED POLICIES:

[Corporate Compliance Plan](#)

[Code of Conduct](#)

Patient Inducement Policy

[Conflict of Interest Policy](#)

Research Conflict of Interest Policy

Institutional Conflict of Interest Policy

[Preserving Professional Boundaries with Patients Policy](#)

[Medical Staff General Rules and Regulations Article XI.3.d.](#)

RELATED FORMS:

REFERENCES:

REGULATIONS:

[AdvaMed, Code of Ethics, adopted September 3, 2003](#)

[Federal Register, Vol. 68, No. 86, May 5, 2003, Compliance Program Guidance Pharmaceutical Manufacturers](#)

[“Health Industry Practices that Create Conflicts of Interest,” Journal of the American Medical Association, January 6, 2006. Vol. 295, No. 4.](#)

[42 CFR Part 411, Stark II, Proposed Regulations, Fed. Register, Vol. 69, No. 59](#)

[US Foreign Corrupt Practices Act of 1977 – 15 U.S.C. §§ 78dd-1 et seq.](#)

KEYWORD SEARCH:

POLICY CONTENT OWNER:

Mikki Massey, Privacy Officer

ADMINISTRATIVE COUNCIL SPONSOR:

Kim Brown, VP, Audit and Compliance

REVIEWED BY:

Stacey Koenig, Director, Child Life & Volunteer Services
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REVIEW PERIOD:

3 years

COMMITTEE REVIEW & APPROVAL:

Medical Executive Committee: 3/20/17
Administrative Council: 3/20/17

FINAL APPROVAL:



Charles Snyder, MD
Medical Staff President

3-27-2017

Date



Randall L. O'Donnell, Ph.D.
President & Chief Executive Officer

4/7/2017

Date

Frequently Asked Questions: Gifts and Gratuities

Section 1: Gifts from Patients of Family Members

Q1: After her discharge, a patient bakes a batch of Christmas cookies around the holidays for all the care you provided during the past few weeks while receiving treatment. How should you deal with this situation?

A1: The CMH Gifts and Gratuities Policy states, “Items which are perishable, such as food or flowers, that may be presented by a patient and/or their family members should be displayed or shared with a department so that all Staff may enjoy the generosity.” Placing the cookies in a break room so that all staff members could enjoy the Gift would be an acceptable option in this situation.

Q2: The mother of patient gives you and another staff member Gift certificates for \$20 each to a local eatery where she is employed. She wants to thank you for working her child in to get a clinic appointment so quickly. Should you and another staff member accept the Gift certificates?

A2: No, CMH policy specifically states that Staff may never accept cash, cash equivalents (including Gift cards or Gift certificates). In addition, Staff may not accept any form of payment from a patient and/or a family member for the performance of any hospital service.

Section 2: Gifts to Patients or Family Members

Q3: You have been working with a child whose family has limited financial resources and you have noticed that the family is struggling to provide some basic needs for the child, including clothing. You have a daughter the same age as the child you are treating and recently you cleaned out your daughter’s closet and would like to offer the clothes to the mother of child you are treating. Is this an acceptable practice?

A3: No. The CMH Gifts and Gratuities Policy, prohibits Staff from purchasing or providing Gifts, money, transportation or other items of need to a patient and/or their family members. Providing these types of items may create a dependence on Staff which cannot be sustained or provided for every patient. Giving Gifts patients and/or their families may create an actual, potential or perceived inducement to patients. Staff who would like to donate items for patient use such as clothes, should contact the Volunteer Services department.

Section 3: Vendor Sponsored Entertainment/Meals

Q4: A CMH Vendor has just contacted you and offered you and another co-worker free tickets to an upcoming concert. You will be making a decision on whether CMH will renew the contract with the vendor in the next month. Is it acceptable for you to accept these tickets?

A4: No. The Gifts and Gratuities Policy states that Staff may accept reasonable business entertainment invitations **for the purpose of discussing business matters or to receive educational information regarding vendor items and/or products.** The policy also indicates that “At no time may Staff accept

invitations for entertainment which would be viewed as excessive (per event cost or number of occurrences/events) or **influencing one's decision making responsibilities.**" Since the Vendor will not be in attendance at the event, no business matters will be discussed. In addition, accepting such tickets may be viewed as influencing your decision of business related matters. Therefore, accepting the tickets would be inappropriate.

Q5: A Vendor has invited you and your spouse to attend an upcoming sporting event. The Vendor has invited all their clients in the health care field as an opportunity to network with other professionals in the same field. Should you accept the invitation?

A5: According to the CMH policy, Staff may accept reasonable business entertainment invitations for the purpose of discussing business matters or to receive educational information regarding vendor items and/or products. However, the cost of spousal participation in activities, such as travel, lodging or entertainment shall not be at the expense of a Vendor or CMH. A Staff member must reimburse the Vendor for the cost of his/her spouse's ticket to such an event.

Section 4: Workshops, Seminars and Training Sessions

Q6: A Vendor CMH frequently does business with asked a few members of your department to participate in training at their corporate headquarters. During the visit the Vendor will be providing information to Staff regarding current and future products as well as a tour of their new facilities. The Vendor is willing to provide air fare and hotel accommodations for four individuals to visit the new facility. Is it acceptable to accept this invitation?

A6: The Gifts and Gratuities Policy indicates that Vendors may pay for reasonable travel costs and accommodations for Staff when travel is necessary for educational purposes and conducive to the exchange of information. During these times occasional hospitality in the form of modest meals and receptions are acceptable. Only those individuals with a bona fide professional interest in the educational session should be in attendance. Staff may not accept travel, accommodations or other arrangements which would be considered excessive or not for the sole purpose of education.

Q7: During the trip described above, the Vendor would like to provide a free round of golf to all Staff in attendance. Would this be acceptable?

A7: No, the CMH policy specifically indicates that during approved travel, Staff are prohibited from participating in recreational activities.

Section 5: Vendor Gifts

Q8: A Vendor CMH uses frequently would like to sponsor a lunch during your department's annual profession week. The Vendor would also like to hold a drawing for staff to receive a free stethoscope. Is this allowable under the CMH policy?

A8: Vendor provided meals or other perishable items are prohibited unless provided during bona fide education or training. Staff may not accept or solicit vendors for sponsorships of professional weeks or holiday celebrations. However, Staff may occasionally receive Gifts from Vendors, but only if the item benefits patients, provides a bona fide educational function, or assists Staff in the performance of their employment duties. Other than Gifts of medical textbooks, Gifts from Vendors should be limited to \$35 per occurrence and/or \$750 total for the year for each Staff member, for all Vendor Gifts combined. Therefore, the sponsorship of a luncheon would not be acceptable. The drawing for the stethoscope would be acceptable since it may be used to assist Staff in the performance of their employment duties; however, the stethoscope must be given to the Hospital's Philanthropy Department, which is responsible for directing the allocation of the stethoscope.

Section 6: Gifts from Patients/Family Members or Vendors to Hospital-sponsored Events

Q9: A patient or their family or a Vendor purchases a table at or individual seat tickets to a Hospital-sponsored event. The patient/family or Vendor offer one or more Staff members a seat(s) at the purchased table or ticket(s) to the Hospital-sponsored event. Is this allowed under the Gifts and Gratuities policy?

A9: Yes. A Staff member may accept up to two (2) seats/tickets from the patient/family or Vendor for themselves and one guest.