

**SOUTH NASSAU
COMMUNITIES
HOSPITAL**

One Healthy Way, Oceanside, New York 11572

POLICY TITLE: Acceptance and/or Solicitation of Gifts or Benefits From Vendors

POLICY NUMBER: OF-ADM-276

DEPARTMENT: Hospital-Wide

CROSS-REFERENCE:

Conflicts of Interest and Related Party Transactions (OF-ADM-275)

No Solicitation Policy (Employee Handbook)

Pharmaceutical Sales Representatives Policy Reference #9015

PURPOSE:

The purpose of this policy is to provide guidance regarding appropriate practices for the acceptance and solicitation of gifts or benefits from vendors in order to ensure compliance with all applicable federal and state laws and the Hospital's Code of Conduct.

DEFINITIONS:

1. **Personnel:** Personnel include employees, management, board members, physicians, physician extenders, contracted staff, volunteers, students, consultants and other agents.
2. **Vendors:** Vendors include all vendors, suppliers, consultants, other care providers, educational institutions, payors, physician owned distributorships, and other third parties (including, but not limited to, pharmaceutical manufacturers) seeking to do, or currently engaged in, business or in competition with the Hospital.
3. **Other Agents** – Other agents of the Hospital include educational institutions (including students), other care providers, payors and other third parties.
4. **Relative** “Relative” of an individual means his or her (i) spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grand- children; or (ii) domestic partner, as defined under New York Public Health Law § 2994-a.

POLICY:

It is the Policy of South Nassau Communities Hospital (the “Hospital”) that personnel may not accept or solicit from a vendor a gift or benefit given as a result of the personnel’s position or association with the Hospital and intended for that individual’s personal use. While offers of gifts, benefits, donations, honoraria, travel expenses or grants serve an important and beneficial function, they may, in some circumstances, violate the federal and state Anti-Kickback Statutes. The federal Anti-Kickback Statute makes it a crime for anyone to knowingly and willfully solicit, receive, offer or pay any remuneration directly or indirectly (including bribes, rebates, kickbacks, cash or in-kind payments) in return for referring an individual for services under any Federal Health program or in return for purchasing, leasing or ordering any goods, facility services or item paid for under any Federal Health program. The statute has been interpreted to mean that if even one purpose of the transaction is to induce referrals or an advantage for the person offering the remuneration, it is a violation of the statute even if it is not the sole purpose of the transaction. The New York State laws prohibit medical assistance providers, who furnish services under Medicaid,

from soliciting or receiving any payment or other consideration for the referral of services for which Medicaid payments are made.

Violations of the federal and state anti-kickback laws may result in significant fines, imprisonment and exclusion from federal and state reimbursement programs; therefore, it is imperative that inappropriate and appropriate practices are distinguished and personnel seek guidance if they are unsure about the propriety of a particular situation.

This policy is not intended to address the extension of gifts to and receipt of gifts from patient's or patient's family members. For further guidance on this topic, please see the Hospital's Policy "Acceptance of Gifts" (OF-ADM-275)

PROCEDURE

A. General Guidelines

- I. Personnel are strictly prohibited from soliciting any gifts or benefits of any kind from any person or entity, either individually or on behalf of the Hospital, with the exception of authorized solicitation for fundraising purposes
- II. Personnel are strictly prohibited from offering or giving any gifts or benefits to government employees or officials.
- III. Personnel may never offer, pay or receive gifts or benefits that in any way take into account the volume or value of referrals, purchases, or other business generated between the parties.
- IV. Personnel may never accept gifts or benefits in exchange for prescribing certain products, services or drugs, or that are intended to induce referrals or otherwise generate business.
- V. Personnel may never accept gifts or benefits that could be perceived as an attempt to interfere with their professional judgment.
- VI. Gifts or benefits to relatives of Hospital personnel are not permitted.

B. Interactions with Vendors

I. Educational Presentations by Vendor Representatives

Presentations and discussions by industry representatives on Hospital premises, such as vendor fairs, during working hours are allowable as long as the information provided is educational in nature and is not solely intended to sell a product or service. Vendors may purchase booth space at a Hospital sponsored vendor fair as long as the opportunity to purchase booth space is offered consistently and equally among the vendors and documentation as such is maintained. However, single booths/tables outside of hospital sponsored meeting, such as Grand Rounds, are not allowable.

- 1.) Accompanying Meals – Meals are allowed in conjunction with an educational presentation as long as the following criteria are met:
 - a.) the meal is modest,
 - b.) the meal is occasional,
 - c.) the meal is held on Hospital premises,

- d.) the meal is not offered as a take out (e.g., a company representative drops off lunch for a department without providing an educational presentation).

Meals provided by a vendor are also acceptable if it is in conjunction with a Hospital authorized event (e.g., HIM Week or Patient Care Services Week) and is provided by a vendor which is currently contracted to do business with the Hospital.

Note: It is appropriate for personnel to attend a meeting where a meal is provided or a networking event with a vendor off of Hospital premises so long as it is on a periodic basis and the purpose of the meeting or event is to promote hospital business or business interests.

- 2.) **Educational Items** – It is appropriate for vendors to offer branded items designed primarily for the education of patients or healthcare professionals if the items have a value consistent with the hospital’s policy on Gifts (OF-ADM-275) (\$100 or less and may not exceed an annual aggregate retail value of \$300 per person) and do not have value to healthcare professionals outside of their professional responsibilities. For example, an anatomical model for use in an examination room is acceptable but a DVD or CD player that may have independent value to a healthcare professional outside of the work environment is not appropriate. However, gifts and gratuities of nominal value, such a flowers, cookies or candy that a vendor may provide during the Holiday Season are acceptable. In addition, as stated in the Hospital’s policy “Acceptance of Gifts” (OF-ADM-275) gifts of cash or cash equivalents are strictly prohibited. Cash equivalents include, but are not limited to, checks, gift certificates, gift cards and stocks.

II. **Fundraising Events** – Vendors may be solicited for gifts and donations for fundraising events so long as the solicitation:

- a.) is for a charitable, academic or educational event organized, sponsored or approved by the Hospital’s Development Office (e.g., the Carnation Ball, 5K Walk/Run and Health Fair, or blood drives),
- b.) is made to all vendors in the community and not limited to those currently doing, or seeking to do, business with the Hospital,
- c.) clearly indicates that an affirmative or negative response will not factor into the vendor selection determination.
- d.) is not originating from Materials Management due to the nature and functionality of the department.

III. **Entertainment and Recreation** –

Unless otherwise provided in this policy or specifically authorized by the Compliance Officer, Personnel may not accept vendor invitations to entertainment events, (e.g., Broadway shows, vacation resorts, sporting events, or other similar activities.)

In some instances, entertainment may be offered by a vendor in the course of doing business (e.g., an offer to go to dinner). Participation in such business entertainment is permissible if:

- (a) there is an actual academic, educational or business purpose for the entertainment (e.g., a vendor representative is present and business is being discussed);
- (b) the business entertainment is consistent with what is reasonable under the circumstances; and
- (c) the business entertainment is not offered for the purpose of influencing the business behavior of the recipient.

For example, Personnel may accept Vendor invitations for Hospital-sponsored fundraising events such as the Carnation Ball, Annual Golf Tournament or other non-hospital sponsored networking events, if attendance at such events is for the purpose of promoting the interests of the Hospital (e.g., personnel may attend a golf

outing sponsored by a vendor for all regional hospital administrators for the purpose of offering a networking forum).

- IV. **Educational or Professional Meetings** – Financial support from vendors for educational or professional meetings (such as those that provide continuing education credits) are allowable so long as the conference is held at an appropriate location and is primarily dedicated to promoting objective scientific and educational activities. Conferences or meetings which focus solely on the marketing of a vendor's products or services are not appropriate.

In addition, personnel and other agents of the Hospital may accept an offer from a vendor to underwrite or subsidize the costs of an educational conference or professional meeting as long as:

- a.) the subsidy is paid directly to the applicable Hospital department. In no event should a subsidy ever be paid directly to personnel or other agent of the Hospital attending the conference or meeting,
- b.) the subsidy is for the cost of the conference or meeting only. Honoraria or reimbursement cannot be accepted for travel, lodging and meal expenses if the personnel's or other agent's role at the conference is solely as an attendee.
- c.) a Request for Seminars/Conferences is completed in accordance with Hospital policy (OF-ADM-209) and any other department specific procedures are met.
- d.) the selection of individuals attending the conference or meeting is made by the Hospital and there is documentation of such selection criteria.

Note: Personnel and other agents of the Hospital may accept reimbursement for actual travel, lodging or meal expenses that are reasonably incurred (e.g., moderate meals and lodging) as part of a site visit or to evaluate equipment or products that the Hospital is considering purchasing.

- V. **Speaker Programs** –Salaried employees of the Hospital are permitted to accept honoraria and reimbursement for travel, lodging and meal expenses to attend a conference or meeting if the individual lectures, makes a presentation, moderates or participates in a panel or acts as a consultant.

- a.) In no way can a speaking engagement be an inducement or reward for endorsing a particular product or service from the vendor.
- b.) Any honoraria or reimbursement must be reasonable and based on fair market value.
- c.) In addition, all honoraria and reimbursement for speaking engagements must be reported annually on the "Conflicts of Interest and Related Party Transactions" policy (OF-ADM-275).

This policy may not include all circumstances. For questions regarding speaking programs, please consult with the Compliance Officer.

- VI. **Solicitation** – The distribution of material or solicitation of personnel or patients on Hospital property (both inside and outside) by vendors is strictly prohibited and is further described in the Hospital's Employee Handbook. The only exceptions to the policy regarding solicitations are functions and activities of South Nassau and its associated organizations that are previously approved.

- 1.) **Maternity Gift Bags** – Hospital policy prohibits the practice of giving gift bags to maternity patients at discharge that were not previously approved by the Department Director.
- 2.) **Educational Materials** – vendor supplied materials intended to provide patient assistance and education must be previously approved by the Department Director. (i.e. new diabetic insulin educational materials and starter kits)
- 3.) **Literature** – that is provided by a vendor in order to inform patients about a product or service is permitted only in patient waiting areas, cannot be directly distributed to patients and must have prior approval by the Department Director.

- 4.) **ID Badges** – Staff are prohibited from using ID badge holders or lanyards that display a vendor’s logo. Only the approved South Nassau ID badge may be displayed and employees may not wear any articles of personal adornment which advertise or sponsor any person or thing unless such items are issued or authorized by the President/CEO of the Hospital. Please see policy *OF-HR-157 “Employee Dress Code”*

C. Review of Vendor Offers or Invitations

I. Any personnel or other agent of the Hospital who receive an offer or invitation of a gift or benefit from a vendor should disclose the situation, in writing, to his/her supervisor. If the supervisor has any doubts as to the acceptance of the offer or invitation, he/she should contact the Compliance Officer. Appendix A of this policy provides some examples of situations involving the offering of gifts and benefits from vendors. Acceptance of gifts, honoraria, etc. should be disclosed in the annual Disclosure Statement as per the Hospital Policy “Conflicts of Interest and Related Party Transactions” (OF-ADM-277)

REGULATORY STANDARDS:

The Federal Anti-Kickback Statute (42U.S.C.§1320a-7b(b)), the New York State Anti-kickback Law (Social Services Law § 366-d)

REPLACES: Oversight Committee 11/09, 6/13

APPROVALS: Oversight Committee 11/14

Appendix A

*** Note: The below is not intended to be an all inclusive list of situations. If there are any questions as to the acceptance of a gift or benefit from a vendor, contact your Supervisor or the Compliance Office. ***

Examples of Unacceptable & Acceptable Vendor Interaction Practices

Unacceptable		A vendor drops off lunch to a department as a thank you for being a loyal customer.
Acceptable		A vendor presents an educational session to a department and brings sandwiches for the staff to eat during the session.
Unacceptable		A vendor provides a gift card to a staff member as a thank you during the Holiday Season.
Acceptable		A vendor provides a box of cookies to a staff member as a thank you during the Holiday Season.
Unacceptable		A vendor provides a patient care unit with a DVD player to keep in the staff area.
Acceptable		A vendor provides a patient care unit with an anatomical poster to hang in the staff area.
Unacceptable		A vendor gives an i-Pod as a thank you to the manager of a department that they just signed a service contract with.
Acceptable		A vendor donates an i-Pod as a raffle for a Hospital blood drive.
Unacceptable		A vendor provides a staff member with two tickets to a sporting event.
Acceptable		A vendor provides a staff member with two tickets to Hospital fundraising events such as the Annual Carnation Ball and Annual Golf Tournament.
Unacceptable		A staff member is invited by a vendor to attend an educational seminar and the vendor will pay for the cost of the attendance, travel, lodging and meal expenses.
Acceptable		A staff member is invited by a vendor to attend an educational seminar to obtain Continuing Education Credits and the vendor will pay for the cost of the seminar only.

