

	Title: Gifts, Gratuities & Business Courtesies	
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PURPOSE

The purpose of this policy is to provide guidelines related to accepting and giving gifts or business courtesies consistent with the values of Lawrence Memorial Hospital (LMH) and our Code of Conduct. This policy should not be considered exhaustive, and any questions related to a particular relationship, gift, or business courtesy should be directed to the department’s director or administrator or the Compliance Officer.

POLICY

No employee shall offer or accept any gift or business courtesy under circumstances where the item is intended or appears to be intended to induce or reward referrals or other benefits, or result in the purchase of goods or services.

- There may be circumstances wherein it is appropriate to give or receive gifts or business courtesies consistent with ethical business practices and appropriate supervisor approval.
- This Policy is intended to assist employees in exercising appropriate decision-making under these circumstances.
- Each employee is expected to carefully evaluate the appropriateness of giving and receiving any gift or business courtesy and to consult with a department’s director or administrator or the Compliance Officer for guidance as necessary.

This policy does not cover:

- Gifts provided by LMH to employees as part of their employment.
- Personal gifts between LMH employees.
- Charitable gifts from Vendors to LMH Endowment Association, which are governed by the Gift Acceptance Policy 8900-004 and the Gift Procurement Policy 8900-001 (available through the LMH Endowment Association);
- Free or discounted goods offered or provided to patients from LMH Marketing Department and the Help and Healing Fund;
- Gifts of prescription drug samples solely and exclusively for use by patients as governed by the Pharmaceutical Samples Policy 2710-002; or
- Demonstration or evaluation units accepted for a limited period, which are governed by the Vendor Relations Policy 8320-007.

Members of the Workforce who interact with any Vendor representatives are expected to be familiar with LMH Policies Vendor Relations 8320-007, and Competitive Bidding Process 8320-009.

DEFINITIONS

“Business Courtesy” means an item of value, whether tangible or intangible, that is: (a) accepted by an LMH employee from a Vendor; or, (b) offered by an LMH employee to a Vendor or Referral Source. (Examples: gift, meal, entertainment, ticket, admission, pass, or access to an opportunity or place not available to the general public).

“Fair Market Value” means the value of an item or service, as bargained for in an arms-length negotiation, in which both the buyer and seller willingly agree to such value and neither is under pressure to complete the transaction.

“Gift” means anything of more than nominal value that is received by an individual for which the recipient has not paid fair market value.

“Nominal value” refers to such limited value as not to be reasonably perceived as an attempt to affect the judgment of the recipient or induce referrals.

“Vendor” means any pharmaceutical company, medical device company, biotechnology manufacturing/supply company, hospital equipment or service provider, organization providing continuation of patient care such as a post acute care provider or tertiary provider, (or its representatives) or any other person or entity that provides or is seeking to provide goods or services to LMH, or that otherwise does business with or is seeking to do business with LMH.

PROCEDURE

RECEIVING GIFTS

Vendors

1. No employee shall accept any Gift from a Vendor while **on the premises** or to be used on the premises of any LMH facility unless one of the following exceptions apply:
 - a) It is permissible to accept certain items which entail a benefit to patients and serve a genuine education value, such as literature, product specific educational starter kits, anatomical models and illustrations.
 - b) Drug samples, product samples and supplies that are intended for patient use and not product promotion may be accepted provided they are not offered in a manner that suggests an attempt to influence decisions related to patient care.
 - c) Vendor education support as described in item 6, below.
2. No employee shall accept any gift of cash or cash equivalent (i.e. gift cards, gift certificates) from any Vendor.
3. Employees may not solicit a Gift from any Vendor, unless as described in item 4, below.
4. Token Items donated by a Vendor (such as key chains, Tshirts, pens, cups, etc.) to be used as part of a LMH-sponsored public awareness campaign or event (such as “Penny Jones”, “Catch a Break”, the LMH Health Fair, or other such event) are acceptable as they are designed to increase awareness of a community need and fit within the mission

of the organization, and are approved by the appropriate LMH representative. Such support should never be solicited from suppliers involved in active or pending negotiations.

5. It is permissible to accept an occasional item of value off site as long as the circumstances are consistent with ethical business practices and the occasion meets the following guidelines:
 - a) The cost and location must be reasonable and not extravagant, avoiding **even the appearance of improper behavior**.
 - b) Acceptance of such invitations from any one Business Associate is limited to three (3) times per year.
 - c) There must be no intent to influence and no obligation attached to the invitation.
 - d) Paid expenses for any travel costs or overnight lodging for the individual and his/her family are prohibited.
 - e) Business courtesies should not be accepted from any vendor that is under active consideration to provide goods or services to LMH. For example, LMH Associates should not accept business courtesies from vendors participating in an active request for proposal process.

6. Vendor support for educational and other professional activities (“Programs”) held at or sponsored by LMH which are designed to enhance the quality of care provided is recognized as valuable. Such support may be accepted if the safeguards described below are followed to avoid undue industry influence or content bias.
 - a) Events Hosted by a Department or Clinic
 - i. The host department or clinic director will review all offers for vendor educational programs in their unit.
 - ii. It is permissible for the department or clinic to host not more than one educational event, on-site or off-site, per month in which **all staff and providers** are invited to participate.
 - iii. Product information from vendors not chosen for the monthly event can be distributed to the unit staff and providers at the director’s discretion.
 - b) Housewide CME or CEU Events
 - i. Decisions regarding the nature of the educational program, its content, speakers, etc., rest solely with LMH, with no control or input by the Vendor;
 - ii. The support is not provided in exchange for prescribing, disbursing, or using products, drugs, biologics or medical devices, or for a commitment to continue such;
 - iii. There is full disclosure, in advance and at the meeting, of the nature and extent of the Vendor’s involvement in the event;
 - iv. Vendor sales and marketing personnel may never serve as program presenters at any LMH educational event.
 - v. Any non-accredited Vendor-sponsored event must occur at a distinct time and location from any CME or CEU accredited program.

The host department or clinic should exercise discretion as to when it would be appropriate to invite vendor representatives to provide educational programs on the premises of LMH. For example, it might be appropriate for a product expert to be available to answer specific questions about new medical technologies or procedures. In contrast, attendance is not appropriate if the representative's presence would serve no purpose other than to highlight the vendor's sponsorship of the educational event or market the Vendor's product.

Vendor representatives may not attend any conference, rounds, or discussions (formal or informal), where individual patients or any collective patient care matters are discussed.

Please refer to LMH Policy 8320-007 "Vendor Relations".

7. Employees may not accept payment by any Vendor for travel expense and other costs related to attending workshops, seminars or training sessions unless such costs were included within the purchase price of any product or equipment and described in the vendor contract.
 - a) This provision does not prohibit an arrangement wherein a Vendor pays travel expenses and other costs for attendance at a workshop or seminar in exchange for legitimate services such as speaking at the event.
 - b) The value of the expenses born by the Vendor must be reasonable and directly related to the services provided by the Employee. The details of the arrangement should be **documented in a written agreement or similar document**.
8. Employees may accept promotional items with a nominal value from any Vendor at an external business meeting or during a professional/educational conference.
9. Employees may participate in Vendor-sponsored raffle events at external conferences as long as all conference attendees are allowed to participate.
10. Gifts from any Vendor to the LMH Endowment Association may be accepted provided they are unrestricted in nature and comply fully with the policies of LMHEA.

Patients

Occasionally, grateful patients may wish to give **token non-cash gifts** of appreciation to individual staff members. Such expressions of appreciation may be accepted if they are of nominal value and are given without expectation of anything in return.

- If a patient wishes to give a Gift in the form of cash, the patient should be directed to the LMH Endowment Association.
- Employees may not accept cash or cash-equivalent gift (i.e. gift cards) from patients.

EXTENDING BUSINESS COURTESIES

Extending Business Courtesies to Non-referral Sources: No portion of this section, "Extending Business Courtesies to Non-referral Sources," applies to any individual who makes, or is in a position to make, referrals to an LMH facility. Such business courtesies are addressed in the *Extending Business Courtesies to Potential Referral Sources* section of this policy.

1. **Government Officials:** Gifts, even if nominal in value, other than modest refreshments, may not be offered to any governmental official. Such gifts could be misinterpreted as an attempt to improperly influence an official and are prohibited.
2. **Inducement of referrals:** Any gift intended to induce or reward referrals or result in the purchase of goods or services is prohibited, regardless of value.
3. **Promotional items:** The marketing department and/or other departments of LMH may develop promotional items of nominal value that promote awareness of clinical programs for referral sources or patients that is consistent with the hospital's mission to promote outreach and education with the goal of creating the Best Community Hospital.
4. **Gifts in recognition of volunteered service:** Gifts of reasonable value offered in appreciation for service requested by LMH and volunteered by the recipient without expectation of payment may be given. For example, departing gifts may be given in thanks to trustees leaving the board, medical staff officers concluding their term in office, or donors following donation as long as the gift is reasonable in value and the value is similar for all similarly situated, and relative value isn't based on the volume of referrals or size of donation. Consult the LMH Endowment Association relative to any pertinent tax considerations.
5. **Meals and Entertainment:** There may be times when a member of the LMH workforce wishes to extend to a current or potential business associate (other than someone who may be in a position to make a patient referral) an invitation to attend a social event (e.g., reception, meal, sporting event, or theatrical event) to further or develop a business relationship.
 - a. The purpose of the entertainment must never be to induce any favorable business action.
 - b. During these events, topics of a business nature must be discussed and the host must be present.
 - c. These events must not include expenses paid for any travel costs (other than in a vehicle owned privately or by the host entity) or overnight lodging.
 - d. The cost associated with such an event must be reasonable and appropriate. As a general rule, this means the cost will not exceed \$150.00 per person.
 - e. Moreover, such business entertainment with respect to any particular individual must be infrequent, which, as a general rule, means not more than three times per year.
 - f. LMH will under no circumstances sanction any business entertainment that might be considered lavish or in questionable taste. Departures from the \$150.00 guideline are highly discouraged and must be approved by the CEO.
6. **Sponsoring Business Events:** LMH may routinely sponsor events with a legitimate business purpose (e.g., hospital board meetings or retreats). Provided that such events are for business purposes, reasonable and appropriate meals and entertainment may be offered. In addition, transportation and lodging can be paid for. However, all elements

of such events, including these courtesy elements, must be consistent with the LMH Code of Conduct.

Extending Business Courtesies and Tokens of Appreciation to Potential Referral Sources: Any entertainment, gift or token of appreciation involving physicians or other persons who are in a position to refer patients to our healthcare facilities must be undertaken in accordance with federal laws, regulations, and rules regarding these practices, primarily the federal Stark Law. LMH departments must be knowledgeable of the regulatory requirements prior to extending any business courtesy or token of appreciation to a potential referral source.

1. Annual Limit Per Physician. LMH departments and clinics may extend gifts or business courtesies to a physician or potential referral source and his or her immediate family members under the following conditions:
 - a. The gift or business courtesy does not exceed the non-monetary compensation amount allowed by the federal Stark Law in aggregate for the calendar year (\$392 for 2015);
 - b. The gift or business courtesy is not cash or a cash equivalent, such as gift cards, gift certificates, checks, or financial instruments (e.g. tips, checks, credit/debit cards, or stocks);
 - c. The gift or business courtesy is not given to influence, incentivize or reward referrals or business decisions;
 - d. The gift or business courtesy is not solicited by the potential referral source;
 - e. The gift or business courtesy is tracked.
2. Medical Staff Incidental Benefits. Excluded and exempt from the non-monetary compensation aggregate limit described above are certain “incidental medical staff benefits”. All of the following conditions must be met to qualify as an incidental benefit.
 - a. The benefit is offered to all members of the medical staff without regard to the volume or value of referrals.
 - b. Except with respect to identification of medical staff on the LMH website or in LMH organizational advertising, the benefit is provided only during periods when the medical staff members are engaged in hospital activities that benefit the LMH or its patients.
 - c. The benefit is provided by the hospital and is used by the medical staff members only on the hospital’s campus. Benefits included, but are not limited to internet access, mobile devices or allowances, and information used on the LMH website for identification and practice contact.
 - d. The benefit is reasonably related to the provision of, or designated to facilitate the delivery of, medical services at LMH.
 - e. The compensation is of low value by Stark definition, i.e., less than \$33 per occurrence of the benefit (e.g. each meal provided while he or she is serving patients is of low value).

- f. The benefit is not determined in any manner that takes into account the volume or value of referral or other business generated between the parties.
 - g. The benefit arrangement does not violate any federal or state law or regulation governing billing or claims submission.
3. Annual Medical Staff Appreciation Event. LMH Administration may provide one medical staff appreciation event per year for the entire medical staff. The Compliance Officer will be informed of the chosen event for tracking purposes. Any gifts provided in connection with the medical staff appreciation event are not considered part of the event. The value of the gift is subject to the non-monetary compensation rules.

References:

- The Federal Anti-Kickback Statute
 - <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap7-subchapXI-partA-sec1320a-7b.htm>
- The Stark Legislation:
 - <http://www.gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap7-subchapXVIII-partE-sec1395nn/content-detail.html> contained in http://www.ssa.gov/OP_Home/ssact/title18/1877.htm
 - <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div6&node=42:2.0.1.2.11.10>
- American Medical Association “Gifts to Physicians from Industry” at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion8061.page>
- A Report by the National Ethics Committee “Gifts to Health Care Professionals from the Pharmaceutical Industry” at http://www.ethics.va.gov/docs/necrpts/NEC_Report_20031201_Gifts_From_Pharma_Industry.pdf
- Healthcare Compliance Association “Practical Approaches to Managing Conflicts of Interest and Gifts Issues” at http://www.hcca-info.org/Portals/0/PDFs/Resources/Conference_Handouts/Compliance_Institute/2012/405handout6.pdf

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