

# UHHS P&P

---

University Hospitals Health System  
Policy & Procedure Manual

## Physician Gifts, Meals, Free CME and Other Business Courtesies

### SCOPE

This policy applies to University Hospitals Health System, Inc. and all of its wholly-owned entities (collectively, “UHHS”), including all UHHS employees, medical staff members and, where appropriate, others who provide services to UHHS.

### PURPOSE

Federal laws set certain requirements when hospitals and certain other providers provide business courtesies to physicians. This policy sets forth how UHHS complies with these federal laws.

### DEFINITIONS

- I. **Business Courtesies** means any item of value given to another free of cost. Business Courtesies may include social events sponsored or hosted by UHHS such as restaurant meals, sporting events, theatrical events and receptions, and gifts and gratuities. Additional examples of Business Courtesies are provided in the procedures section of this Policy to show what is, or is not, included in this definition under federal law.
- II. **Non-monetary Compensation Limit** means the Stark law annual non-monetary compensation limit as published by the Center for Medicare and Medicaid Services (“CMS”). The annual Non-monetary Compensation Limit is \$322 in 2006 for each UHHS entity providing designated health services (e.g., hospitals, home health providers), and will be adjusted based upon limits periodically set by CMS. CMS publishes annual adjustments on the physician self-referral Internet site: [http://www.cms.hhs.gov/PhysicianSelfReferral/10\\_CPI-U\\_Updates.asp](http://www.cms.hhs.gov/PhysicianSelfReferral/10_CPI-U_Updates.asp) on or around September 30<sup>th</sup> of each year for the following calendar year.
- III. **Referral Source** means a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor; and

such individuals' immediate family members (i.e., spouse, natural or adoptive parent, child, sibling, step-parent, step-child, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and the spouse of a grandparent, grandchild). Referral Source includes individuals employed by UHHS.

## **POLICY**

- I. A UHHS employee may, on behalf of a UHHS entity, extend Business Courtesies to a Referral Source, provided that the total value of such Business Courtesies does not exceed the Non-monetary Compensation Limit for such UHHS entity in any calendar year. Nothing in this Policy should be considered in any way as an encouragement to offer Business Courtesies to Referral Sources.
- II. Nothing in this Policy permits a UHHS entity or employee to offer or provide Business Courtesies or other benefits as an inducement to refer patients or business or as a reward for such referrals. A UHHS entity or employee may not offer a Business Courtesy to a Referral Source who solicits such Business Courtesy.
- III. **Please Note:** This Policy does not apply to non-monetary compensation provided by a UHHS entity directly to Referral Sources employed by that UHHS entity. For guidance on compensation to UHHS physician employees, please refer to the UHHS policy on Physician Employment (PT-5). This Policy does not apply to Business Courtesies offered by UHHS employees to non-Referral Sources (e.g., vendors and other business associates, patients and government officials not in a position to refer patients to UHHS). For guidance on such Business Courtesies, please refer to the UHHS policy on Vendor Gifts, Meals, Business Courtesies and Consulting Payments (OI-9). This policy also does not apply to expenses associated with meetings and meals with bona fide business expenses. Please see Procedure Sections IV. D and IV E.

## **PROCEDURE**

- I. A UHHS employee may extend Business Courtesies to a Referral Source under the following conditions:
  - A. It is not cash or a cash equivalent (e.g., checks, stock, bonds, gift certificates);
  - B. It does not exceed the Non-monetary Compensation Limit or cause the total value of Business Courtesies extended to the same Referral Source by that UHHS entity to exceed the Non-monetary Compensation Limit for the calendar year; and
  - C. It is not determined in a manner that takes into account the volume or value of referrals or other business generated by the Referral Source.

- II. The President or most senior administrator or his or her designee (who may be the compliance officer), of each UHHS entity must establish a:
- A. tracking mechanism that ensures that Business Courtesies provided to Referral Sources comply with the Non-monetary Compensation Limits set forth in this Policy;
  - B. procedure by which UHHS employees will receive pre-approval prior to extending Business Courtesies to Referral Sources, and
  - C. communication plan to periodically inform UHHS employees of the particular UHHS entity about this Policy, such entity's tracking mechanism and approval procedures.

The tracking mechanism, approval procedures and communication plan must be approved by the Compliance and Ethics Department and implemented by each applicable UHHS entity within 60 days of the initial adoption of this Policy.

**UHHS employees should contact their facility's compliance officer or the UHHS Compliance and Ethics Department for their facility's procedures and for questions under this Policy.**

- III. The following are examples of Business Courtesies provided by or reimbursed by a UHHS entity that are within the Non-monetary Compensation Limit and must be tracked, but should not be considered an exhaustive list:
- A. A special dinner at a restaurant for a Referral Source to recognize certain clinical achievements.
  - B. A dinner at a restaurant or UHHS employee's home to celebrate a milestone for a UHHS entity such as the end of a project or the launch of a new service.
  - C. Paying the greens or entry fees for a Referral Source for golf (whether one-on-one or for a charity or facility golf tournament).
  - D. Providing tickets for a Referral Source to sporting or theatrical (or similar) events.
  - E. Providing flowers or other non-monetary gifts to Referral Sources when they are hospitalized or to recognize a birthday or other family occasion.
  - F. Hosting holiday or other parties involving Referral Sources.
  - G. Perishable gift items to be used by a Referral Source and others in their office. The value to each separate Referral Source in the practice is the total cost of the item divided by the number of Referral Sources and their employees who will enjoy the benefit of the items (e.g., for a gift to a physician's practice, the total number of physicians and employees in the practice).
  - H. Providing CME to a Referral Source at no charge, except as provided in Section IV. B., below. For uniform tracking purposes, CME and provider education program costs provided by UHHS shall be attributed at fair market value, which shall be the

standard rate that the UHC/Case CME office periodically sets for all CME programs, unless specific information about the particular CME program states a different amount. For 2005 this rate is set at \$16.00 per hour. To obtain the current rate contact the UHC/Case CME Office

**Please note: if any of the above items are provided to a UHHS employed Physician by a UHHS entity that does not employ such physician, such items are subject to this policy. If they are provided by the UHHS entity that employs the physician, they are considered compensation and are subject to UHHS policy on Physician Employment (PT-5).**

IV. The following are activities not considered Business Courtesies under this Policy and do not count toward the Non-Monetary Compensation Limit and need not be tracked:

- A. Medical staff benefits valued at less than \$27 per occurrence and which occur within the UHHS facility so long as:
1. The benefit is not cash or a cash equivalent;
  2. It is provided to all members of the medical staff in a specialty;
  3. It is offered without regard to the volume or value of referrals or other business generated between the physician and the UHHS entity;
  4. It is provided only during periods when the physician is conducting hospital-related patient care related activities making rounds or is engaged in other services benefiting the UHHS entity or its patients; and
  5. It is reasonably related to the provision of medical services at the UHHS entity.

Example: Meals under \$27 provided to medical staff members at the facility.

Example: Pagers/two-way radios used to access patient information.

Example: Parking at a facility garage.

**Please note:** CMS publishes annual adjustments to the incidental medical staff benefit amount on the physician self-referral Internet site: [http://www.cms.hhs.gov/PhysicianSelfReferral/10\\_CPI-U\\_Updates.asp](http://www.cms.hhs.gov/PhysicianSelfReferral/10_CPI-U_Updates.asp) on or around September 30th of each year for the following calendar year.

- B. CME programming offered to a Referral Source by a UHHS entity at no charge that is:
1. Less than 1.5 hours in duration, occurring within the UHHS facility, offered to all medical staff members of the same specialty and relating to the provision

- of services rendered by Referrals Sources within the UHHS facility;
2. Provided or reimbursed pursuant to a professional services agreement with a physician (e.g., an agreement between a UHHS community hospital and a physician acting as medical director) in compliance with the UHHS policy on Medical Director and Other Service Agreements with Physicians (PT-2); or
  3. Provided pursuant to an appointment letter, attached as Attachment A, and is related to the Referral Service's appointment to a UHHS board, committee or medical staff leadership position.
- C. Provider education conducted in the local community or service area that is exclusively related to compliance with the UHHS Code of Conduct or UHHS policies and procedures.
- D. Modest meals and expenses incidental to a business meeting with a Referral Source to discuss issues relating to the Referral Source's professional services (e.g., medical directorship) on behalf of a UHHS entity, provided the professional services agreement complies with the UHHS policy on Medical Director and Other Service Agreements with Physicians (PT-2).
- E. Paying the expenses of Referral Sources to participate in out-of-facility meetings and retreats (e.g., board meetings, committee meetings, medical staff meetings, meetings involving the recruitment of physicians), including travel, meals and lodging expenses, provided that the UHHS facility President (or his or her designee) and the Referral Source sign an appointment letter, attached as Attachment A. In the case of physician recruitment, the expenses directly attributed to the recruit would not need to be tracked pursuant to this policy.
- F. Items of non-monetary compensation provided to a Referral Source by the UHHS entity employing such Referral Source, provided such non-monetary compensation complies with the UHHS Policy on Physician Employment (PT-5). Such items must be reflected on the budget/financial records of the UHHS entity employing the Referral Source.
- G. Providing items or services in exchange for their fair market value price.
- H. Meals or other social events provided by a UHHS employee who has become friends with a Referral Source and who socializes with such Referral Source, provided that the UHHS employee not include this item as a business expense for tax proposes and does not charge UHHS or otherwise receive reimbursement from UHHS to cover this expense.
- I. Meals or other social events provided to a Referral Source who is a spouse of a

UHHS employee, when a UHHS entity provides a meal or social event for UHHS employees and their spouses.

- V. Appointment Letters substantially following the template form attached as Attachment A do not require approval by the UHHS Law Department as to form. Signed copies of executed appointment letters, however, must be forwarded to the UHHS Law Department and should be maintained by the UHHS facility president (or his or her designee).

**ATTACHMENT**

Attachment A: Template Appointment Letter

**SEE ALSO**

In the UHHS P&P:

- OI-9, Vendor Gifts, Meals, Business Courtesies and Consulting Payments
- PT-2, Medical Director and Other Service Agreements with Physicians
- PT-3, Physician Recruitment Activities and Agreements
- PT-5, Physician Employment

**REFERENCES**

- 42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952
- 42 U.S.C. § 1395nn; 42 C.F.R. § 411.357

<b>APPROVALS</b>	
 _____ CHIEF EXECUTIVE OFFICER	 _____ Date
 _____ SENIOR VICE PRESIDENT	 _____ Date

**Attachment A**

**Template Appointment Letter**

Dear \_\_\_\_\_:

I am writing to notify you of your appointment as a member of the \_\_\_\_\_ for the period \_\_\_\_\_ to \_\_\_\_\_. We very much appreciate your willingness to serve in this important role.

In exchange for the commitment of your time to attend meetings and other sessions and to do necessary preparation, we will pay all reasonable expenses associated with your service, including the costs of meals served at meetings, the costs of any retreats that may be held, the costs of any educational sessions you may need to attend related to your hospital duties, or other reasonable costs related to this role, all to be pre-approved.

We apologize for the seeming formality of this letter, but certain Federal laws related to physician compensation require documentation in this form. Your appointment will be effective when you sign and return this letter to me indicating your willingness to serve on the basis set forth herein.

Sincerely,

ACCEPTED AND AGREED:

\_\_\_\_\_

DATE: \_\_\_\_\_