



Title: Gifts, Gratuities and Business Courtesies

Responsible Department: Administration	Date Created: 02/10/2020
Approver(s): Board of Trustees, Corporate Compliance Committee, Keith Page (President & CEO)	Date Approved: 09/17/2020

This policy applies to Anderson Hospital, Community Hospital of Staunton, Maryville Imaging, LLC, Anderson Medical Group, LLC, and Anderson Surgery Center (together “Anderson Healthcare”).

POLICY STATEMENT: Anderson Healthcare seeks to ensure its employees conduct business in an honest, ethical, and fair manner and in accordance with all applicable laws and regulations. Federal and state laws prohibit the acceptance of anything of value, whether offered directly or indirectly or whether in cash or in kind, that may induce or appear to induce the purchase, recommendation, or referral for any kind of item or service that may be reimbursed by a federal or state health care program. This policy is intended to provide parameters for appropriate decision-making with regard to the acceptance or provision of Gifts, Gratuities, or Business Courtesies to ensure compliance with the Anderson Healthcare Code of Excellence/Code of Conduct and all applicable federal and state laws and regulations.

The solicitation, acceptance, or provision of any Gift, Gratuity, or Business Courtesy in violation of any applicable law, regulation, or Anderson Healthcare policy or procedure is strictly prohibited.

DEFINITIONS:

“Anderson Healthcare” means Anderson Healthcare and any entity which Anderson Healthcare directly or indirectly controls through a controlling membership interest, a controlling shareholder interest, or voting rights to approve the appointment of at least a majority of the governing body.

“Business Courtesy” means an item of more than Nominal Value, whether tangible or intangible, that is either accepted by an Anderson Healthcare employee from a Vendor or offered by an Anderson Healthcare employee to a Vendor or Referral Source. Examples include gifts, meals, entertainment, tickets, admission or access to an opportunity or place not available to the general public.

“Covered Individual” means any individual subject to Anderson Healthcare’s Compliance Program and their immediate family. Covered Individuals include employees, professionals, volunteers, students, contractors, consultants, suppliers, and vendors.

“Fair Market Value” means the value of a product, service, or transaction that would result from *bona fide* bargaining based on an arm’s length relationship between a willing buyer and willing seller who are not otherwise in a position to generate business for the other party.

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“Gift” means anything of more than Nominal Value that is received by an individual for which the recipient has not performed services or paid fair market value. Examples include cash, cash equivalents such as gift cards, loans, promotional items, food and beverages, entertainment or sports tickets, discounts, or use of facilities or vehicles.

“Gratuity” means any money or other thing of value collected or received that is in excess of the basic contractual liability.

“Nominal Value” means of such limited value so as to not be reasonably perceived as an attempt to affect the judgment of the recipient or induce referrals. The OIG interprets Nominal Value as having a retail value of no more than \$15 per item or \$75 in the annual aggregate.

“Patient” means a former or current Anderson Healthcare patient and his or her immediate family.

“Referral Source” means an individual or entity who makes a referral to Anderson Healthcare, who directs another person or entity to make a referral, or who controls referrals made by another person or entity. The term “Referral Source” also includes the professional corporation of which the individual is a sole owner.

“Vendor” means a company, including any employee, agent, or representative of the company, that currently supplies or has the potential to supply products or services to Anderson Healthcare or is otherwise in a position to do business with Anderson Healthcare.

“Vendor-Sponsored Event” means an event sponsored by a Vendor with a primary purpose other than a business meeting. Examples include conferences, educational programs, or social events where business matters may be discussed, but are not the primary purpose.

GUIDELINES/PROCEDURE:

No Covered Individual shall offer or accept any Gift, Gratuity, or Business Courtesy under circumstances where the item or service is intended, or appears to be intended, to induce or reward referrals or other benefits, or to result in the purchase of goods or services. There may be, however, circumstances wherein it is appropriate to give or receive Gifts, Gratuities, or Business Courtesies consistent with ethical business practices. This Policy is intended to assist Covered Individuals in exercising appropriate decision-making when evaluating the appropriateness of giving or receiving any Gift, Gratuity, or Business Courtesy.

Nothing in this Policy is intended to prohibit the development of good and ethical relationships between Covered Individuals and Anderson Healthcare’s business partners.

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Although this Policy should not be considered exhaustive, all Covered Individuals are required to abide by the letter and spirit of its guidance. Questions regarding a particular relationship, Gift, Gratuity, or Business Courtesy should be directed to the Department Director, Chief Human Resource Officer, or Chief of Compliance and Risk.

1. Accepting Gifts, Gratuities, or Business Courtesies.

Covered Individuals are prohibited from soliciting Gifts, Gratuities, or Business Courtesies of any kind from Vendors, Referral Sources, or Patients.

Even Gifts, Gratuities, and Business Courtesies of Nominal Value may be viewed to influence or potentially influence Covered Individuals in the conduct of their duties and responsibilities. As such, whether Covered Individuals may accept a Gift, Gratuity, or Business Courtesy depends on what is being offered, by whom, and for what purpose.

a. Gifts from Vendors

Covered Individuals are generally prohibited from accepting Gifts, Gratuities, or Business Courtesies from Vendors except:

- i. Modest, work-related perishable gifts such as a floral arrangement, box of cookies, non-alcoholic beverage, candy, or similar food items of Nominal Value to be shared amongst staff;
- ii. Promotional items of Nominal Value such as pens, notepads, or mugs;
- iii. Meals valued at less than \$15 per person when celebrating the Department’s nationally recognized week; and
- iv. Educational support in compliance with section 5(a)(i) below.

There may be other circumstances when it is permissible to accept a Gift, Gratuity, or Business Courtesy from a current or potential Vendor. Acceptance of any such Gift, Gratuity, or Business Courtesy is allowable only when all of the following conditions are met:

- i. The Gift, Gratuity, or Business Courtesy is not offered to induce or influence, or potentially induce or influence, a business transaction;

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- ii. The cost, location, and nature of the Gift, Gratuity, or Business Courtesy is reasonable;
- iii. The offer is for an ordinary business meal or gathering during which the host is present;
- iv. The Gift, Gratuity, or Business Courtesy does not include travel expenses or overnight lodging; and
- v. Acceptance of an offer from any particular Vendor is rare, unless the expenses are shared equally by both parties.

Covered Individuals are expressly prohibited from accepting any of the following Gifts, Gratuities, or Business Courtesies from Vendors:

- i. Cash or cash equivalents such as gift certificates, stocks, or bonds;
- ii. Items capable of personal use such as a DVD player or an IPAD;
- iii. Personal entertainment items such as tickets to sporting events or concerts, or gifting skiing, hunting, fishing, or vacation excursions at which the host is not present or that may be perceived as conveying personal benefit to the recipient;
- iv. Payments for listening to a Vendor’s marketing presentation or for completing written evaluations of a Vendor’s product or service;
- v. Payments for recruiting patients for clinical research activities unless such research activity is approved by an appropriate Institutional Review Board (IRB);
- vi. Payments in exchange for an endorsement of the Vendor or the Vendor’s products or services. Requests for product or Vendor endorsements should be referred to the Chief of Compliance and Risk;
- vii. Payments or accommodations for shadowing arrangements in a patient care setting unless the Vendor has a defined role in the care of the patient(s) and is registered in the Vendor Management system;

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- viii. Payments or accommodations for ghostwriting arrangements (allowing a Vendor to author a published article or other document and attribute the authorship to a Covered Individual); and,
- ix. Meals that are provided without an educational session except those provided during the Department’s nationally recognized week.

b. Gifts from Referral Sources

In addition to the restrictions on accepting Gifts, Gratuities, or Business Courtesies from Vendors set forth in section 1(a) above, Gifts, Gratuities, or Business Courtesies from Referral Sources must be of such limited value that they could not be reasonably perceived by anyone as an attempt to induce referrals or affect the judgment of the recipient. All such Gifts, Gratuities, or Business Courtesies from Referral Sources must:

- i. Be at a reasonable location and for a reasonable cost;
- ii. Not exceed an annual value of \$75; and
- iii. Not include paid expenses for travel or overnight lodging.

Modest meals or socializing opportunities held as part of a conference or meeting primarily to discuss business are acceptable if the host is present.

c. Gifts from Patients

Occasionally, grateful Patients may wish to give a token non-cash or cash equivalent gift of appreciation to individual staff members or a particular Department or Practice. 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 make a gift of cash or cash equivalent or a gift in excess of Nominal Value, the Patient should be directed to the Anderson Hospital Foundation or Friends of Community Memorial Hospital.

d. Honoraria and Consulting Fees

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Covered Individuals who are invited to speak or provide *bona fide* consulting services can accept reimbursement in the form of honorarium or compensation for time and expenses under the following conditions:

- i. Travel, lodging, and meal expense reimbursement is reasonable and directly related to the engagement;
- ii. Compensation received is at Fair-Market Value;
- iii. Presentations or consultation engagements must be of scientific or academic merit or to the benefit of Anderson Healthcare;
- iv. Consultation and service agreements must be in writing;
- v. Acceptance of honorarium or consulting fees must be approved in advance by an appropriate Administrative Director; and
- vi. Covered Individuals may not privately consult for a Vendor who conducts, or wants to conduct, business with Anderson Healthcare without receiving prior approval from their Administrative Director. PTO must be taken when providing the consulting work during regularly scheduled work hours.

2. Offering Gifts, Gratuities, or Business Courtesies

a. Gifts of Promotional Items

Anderson Healthcare’s Community Relations, Education, or Human Resource Departments may develop promotional items of Nominal Value such as pens, notepads, or calendars to promote awareness of clinical programs. Gifts to Patients or Referral Sources of any such promotional item is permissible and consistent with Anderson Healthcare’s mission to provide community outreach and education.

b. Gifts to Referral Sources

Any Gift, Gratuity, or Business Courtesy intended to induce or reward referrals or result in the purchase of goods or services is strictly prohibited. All Gifts, Gratuities, or Business Courtesies to physicians must also comply with Anderson Healthcare’s Non-Monetary Compensation policy.

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Gifts, Gratuities, or Business Courtesies to Referral Sources must be of such limited value that they could not be reasonably perceived by anyone as an attempt to induce referrals or affect the judgment of the recipient. All such Gifts, Gratuities, or Business Courtesies to Referral Sources must:

- i. Be at a reasonable location and for a reasonable cost;
 - ii. Not exceed an annual value of \$75; and
 - iii. Not include paid expenses for travel or overnight lodging.
- c. Gifts to Government Officials

Covered Individuals are expressly prohibited from offering any Gifts, Gratuities, or Business Courtesies to any Government Official including gifts of Nominal Value such as food or beverages. Any such offer could be misinterpreted as an attempt to improperly influence an official and must be avoided.

3. Gifts, Gratuities, or Business Courtesies Among Anderson Healthcare Employees

This Policy does not apply to interactions between Anderson Healthcare employees or between Anderson Healthcare and its employees even though such interactions may involve the exchange of items that could be classified as a Gift, Gratuity, or Business Courtesy if received from a Vendor including social, congratulatory, recognition, or other gifts.

4. Charitable Gifts or Events

Nothing in this Policy is intended to prohibit the Anderson Hospital Foundation or Friends of Community Memorial Hospital from soliciting or accepting charitable donations of goods or services provided the donation is not intended to induce or appear to induce the purchase, recommendation, or referral for any kind of item or service. Nor is this Policy intended to prohibit Covered Individuals from making charitable donations that are not intended to influence business decisions.

Covered Individuals are permitted to attend Anderson Healthcare fundraising events that are sponsored by current or prospective Vendors as long as the Covered Individual does not solicit the invitation from the Vendor and the hosting Vendor attends the event with the Covered Individual.

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If a current or prospective Vendor wishes to sponsor an Anderson Healthcare fundraising event, but cannot be in attendance, the Vendor may offer the event tickets to the Anderson Healthcare Community Relations Department. The Community Relations Department, in consultation with Administrative Council, will allocate the tickets to appropriate individuals.

Covered Individuals are permitted to attend vendor-sponsored fundraising events for other non-profit organizations as long as the event directly supports the non-profit organization, the host attends the event with the Covered Individual, and the cost, nature, and location of the event are reasonable.

5. Sponsored Events

a. Vendor-Sponsored Educational Events

Vendor-Sponsored Educational Events are appropriate when all of the following conditions are met:

- i. The offer or acceptance of education must never be made conditioned on, or related in any way, to pre-existing or future business relationships with the Vendor;
- ii. Faculty must be present to supervise educational discussion; and
- iii. There are no more than two educational sessions per week.

Meals provided in conjunction with Vendor-Sponsored Educational Events are appropriate when all of the following conditions are met:

- i. The education is applicable to the work of the recipient;
- ii. The value of the meal does not exceed \$15 per person; and
- iii. The Department Director or physician is present.

b. Vendor-Sponsored Travel

A Vendor may cover travel expenses to a Vendor-Sponsored Event only if all of the following conditions are met:

- i. The cost, location, and nature of the expenses are reasonable; and

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- ii. The recipient is:
 - 1. Presenting at the conference;
 - 2. Participating in a meeting for the purpose of sponsored research protocol review;
 - 3. Participating as a member of a governmental panel; or
 - 4. Participating as part of an approved “Speakers Bureau” engagement.

Gifts of travel expenses for family members are always prohibited. Reimbursement for a Covered Individual’s travel expenses by any individual or entity other than Anderson Healthcare is prohibited when:

- i. The cost, location, and nature of the expenses appear extravagant (e.g. travel outside the United States);
- ii. The primary focus of the travel is social, with minimal or no business activity (e.g. golf, resort, or other recreational activities); or
- iii. The travel is offered by a potential or current Vendor to discuss, promote, or showcase Vendor products or services if not explicitly defined in existing Vendor contract unless there is prior approval from the Chief of Compliance and Risk in consultation with the CEO.

c. Anderson-Sponsored Events

Anderson Healthcare may routinely sponsor events with a legitimate business purpose, such as Board meetings or retreats. Anderson Healthcare may pay for reasonable and appropriate meals, entertainment, travel, and lodging at these Anderson-Sponsored Events.

6. Sunshine Act

The Physician Payments Sunshine Act requires manufacturers of drugs, medical devices, and biologicals that participate in federal health care programs to track and report certain payments and items of value given to physicians. The Sunshine Act is designed to increase

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transparency and provide patients and the public with information on the nature and value of financial interactions between physicians and Vendors.

The Sunshine Law does not declare what is a legal or illegal relationship between a physician and Vendor; nor does it speak to the appropriateness of a Gift. When considering a Vendor's offer, a physician Covered Individual should evaluate the applicable transparency reporting implications in addition to following this Policy.

Honoraria and consulting compensation provided to physicians by Vendors subject to the Sunshine Act are reportable and will be attributed to the physician recipient, regardless of whether the physician received the payment directly or indirectly through a clinic, employer, group practice, or other entity or whether the recipient directed the payment to a charity as a donation.

Vendors subject to the Sunshine Act shall inform the physician in advance whether, and to what extent, a Gift, meal, or other financial exchange is reportable to the CMS Open Payments Database and afford the physician an opportunity to decline the offer. Any Vendor who refuses to provide such information in advance shall be reported to the Chief of Compliance and Risk.

Vendors carry the sole obligation to track and report the financial exchange to CMS. Anderson Healthcare has no such reporting obligations.