



Section: 600 - Compliance

Subject: Gifts and Gratuities

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I. Purpose

The purpose of this policy is to provide guidance with respect to the giving or receiving of gifts and gratuities, to or from patients and their families, vendors, or potential referral sources, while complying with applicable federal and state laws, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, and Jackson Health System (JHS) policies.

II. Definitions

Anti-Kickback Statute – a federal statute that prohibits an offer or acceptance of anything of value in exchange for patient referrals or the generation of business involving any item or service payable by Federal health care programs (e.g., Medicare and Medicaid).

Associate – any JHS Board member, employee, physician, non-physician provider, contractor, vendor or volunteer.

Gift – the transfer of anything of economic value (i.e., cash, gift cards, service, loan, travel, entertainment, tickets to sporting or other events, hospitality, other item or promise) without adequate and lawful compensation. (Food/beverages consumed at a single sitting or meal shall be considered a single gift.)

Gratuity – a gift (as defined above) usually given in appreciation for service provided.

Immediate Family Member – spouse, domestic partner, parents, stepparents, children and stepchildren of a JHS employee.

Nominal Value – The Department of Health and Human Services, Office of Inspector General (OIG) interprets “inexpensive” or “nominal value” to mean a retail value of no more than \$15 per gift or \$75 in the aggregate, per year, per individual.

Potential Referral Source – any individual or entity in a position to make or influence patient referrals, or otherwise generate business for any JHS entity.

Vendor – a company and/or its representative or agent, contractor, or any other person or entity that provides or seeks to provide goods and/or services to JHS, currently does business with JHS, or seeks to do business with JHS.



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III. Procedure

A. General Guidelines

To prevent undue influence and/or avoid the appearance of impropriety, JHS associates may not give or receive a Gift or Gratuity from a vendor, patient, patient's family member, potential referral source, or others who may influence the recipient's decision-making, unless the gift or gratuity is given or accepted in accordance with this policy.

B. Gifts and Gratuities from Patients or Patients' Family Members

1. An unsolicited gift of nominal value (e.g., fruit basket, pizza, pastries, etc.) may be accepted from a patient or their family member provided the gift:
 - a. Can be shared by staff members within the recipient's department.
 - b. Is not related to past or anticipated preferential treatment.
2. Cash, gift cards, gift certificates, or other cash equivalent may not be accepted.
 - a. If a patient and/or a patient's family wishes to show their appreciation by giving a gift of cash or cash equivalent, they should be directed to the Jackson Health Foundation.
3. If an associate receives a gift or gratuity that they are not able to refuse, but that cannot be accepted in accordance with this policy, and they are not able to return the gift or gratuity, they should inform their supervisor.
 - a. The supervisor will work with the Office of Compliance and Ethics to have the gift or gratuity returned to the giver with an explanation of this policy and information regarding contributing through the JHS Foundation.

C. Gifts to Patients and Potential Referral Sources

1. It is unlawful for a provider of healthcare services to offer, pay, solicit, or receive anything of value that could influence a business decision or referral of business to JHS or induce a patient to seek healthcare services at JHS.
2. Except for those referenced in number 3 (below), any gift given to a patient or potential patient:
 - a. Must not exceed the nominal retail value of \$15 per item and \$75 in aggregate per year, per individual, and
 - b. May not be cash or a cash equivalent, such as a gift card.
3. Gifts given to non-employed physicians must be considered "compensation" under the non-monetary compensation (NMC) exception to the Stark Law.
 - a. Regardless of the amount, such gifts must be made known to the Office of Compliance and Ethics, so they can be tracked, in order to ensure that the total value of gifts given to an individual physician in any calendar year do not exceed the limit for NMC that is allowable by law.

D. Vendor Invitations, Sponsored Meals and Other Gifts and Benefits

1. Vendor sponsored events that involve travel are subject to the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, which states as follows:

"Employees shall not accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer."
2. Vendor sponsored meals provided at local venues should only be accepted if:
 - a. The meal is of modest value and
 - b. There is a valid business reason to attend (e.g., relevant education is provided).
3. A meal that is brought onsite by a vendor (e.g., medical device or pharmaceutical representative) to any JHS facility or Jackson Medical Group (JMG) office should not be



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accepted, unless it is provided in conjunction with a discussion pertaining to bona fide matters related to hospital business or an educational offering regarding Vendor items and/or products.

- a. Any such meal must be of modest value.
- b. An agenda and/or educational/informational materials must be made available to all attendees.

If you are uncertain about the appropriateness of giving or receiving a gift or gratuity, it is your responsibility to seek guidance from your supervisor or the Office of Compliance and Ethics at jhs-compliance@jhs-miami.org.

IV. References

Anti-Kickback Statute 42 U.S.C. § 1320a-7b
 DHHS OIG Gifts of Nominal Value to Medicare and Medicaid Beneficiaries (December 2016)
 DHHS OIG Special Advisory Bulletin (August 2002)
 JHS Employee Code of Conduct
 JHS Policy No. 144 - Gifts to the Hospital
 JHS Policy No. 248 - Procurement Regulation
 JHS Policy No. 604 - Non-Monetary Compensation and Medical Staff Incidental Benefits

Responsible Party: Chief Compliance Officer
 Jackson Health System

Reviewing Committee(s): JHS Policy and Procedure Committee

Authorization: CEO, Jackson Health System