

 Samaritan Health 830 Washington Street Watertown, NY 13601	Acceptance and or Solicitation of Gifts and Benefits		Document No. 3502
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Business Units:	Medical Center, Samaritan Home Health, Samaritan Keep Home, Samaritan Summit Village Assisted Living, Samaritan Summit Village Skilled Nursing, Centers and Clinics		

This Corporate Compliance Acceptance and/or Solicitation of Gifts and Benefits Policy is applicable to Samaritan Medical Center and its Affiliates: Samaritan Keep Home, Samaritan Medical Practice, Samaritan Summit Village, and Samaritan Home Heath (collectively, “Samaritan”).

PURPOSE:

To provide Affected Individuals (as defined herein) with information to assure that they are complying with applicable state and federal laws governing the giving and receiving by health care providers of gifts and other items of value, including the federal Anti-Kickback Statute (“AKS”), which makes it a crime to knowingly and willfully solicit or receive any remuneration (including gifts) where the intent is to induce or reward the purchase of items or services reimbursable by a Federal Health Care Program.

An individual convicted of violating the AKS is guilty of a felony and may receive a prison sentence of up to ten years and have to pay a fine of up to \$100,000.00.

To also provide Affected Individuals with information to assure their understanding that seeking, accepting, offering or making any payment, gift or other thing of value to or from any subcontractor, vendor, supplier or potential contractor for the purpose of obtaining or acknowledging favorable treatment under a private government contract or subcontract is strictly forbidden.

SUMMARY:

This policy provides guidelines for appropriate decision-making regarding the acceptance or provision of any gifts and business gratuities by Affected Individuals under any circumstance that could be construed as an improper attempt to influence Samaritan’s or the Affected Individual’s decisions or actions or violate federal and/or New York regulations. The policy provides examples of acceptable gifts and benefits and indicates when prior approval is required for acceptance.

DEFINITIONS:

Arm's Length - Transactions entered into in good faith in the ordinary course of business, by parties with independent interests. Samaritan employees would be acting in the best interest of Samaritan.

Benefit - Means anything reasonably regarded as monetary gain or monetary advantage, including benefits to any other person in whose welfare the beneficiary has a direct and substantial interest.

Affected Individuals –Means all persons affected by Samaritan’s risk areas, including employees, the chief executive officer of SMC and other senior administrators, managers, and contractors agents, subcontractors, independent contractors, and governing body and corporate officers of Samaritan, as appropriate.

Federal Health Care Program – Any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government or a state health care program, including, without limitation, Medicare, Medicaid and Tricare.

Gifts - A gift is anything that has monetary value which you obtain for less than "market value." The gift might be tangible or intangible and may include, but is not limited to, a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It also includes services, and gifts of training, transportation, travel, lodging, and meals.¹ Gifts may include, but are not limited to, the following:

Cash	Checks	Securities
Subsidies	Real Property	Personal Property
Referrals	Offerings	Goods
Favors	Prizes	Services
Employment	Business or Professional Activities	Gift Certificate/Card

Patient/Resident – Means any individual receiving services from Samaritan.

Remuneration - Remuneration includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind, including gifts, meals, free or discounted transportation, lodging, tickets to sporting events, jewelry, etc.

Vendor - Means any individual or company that sells goods and/or services to Samaritan. For the purposes of this policy, it includes entities that have, do, or may sell goods and/or services to Samaritan.

POLICY:

Affected Individuals may not accept or solicit any gift or benefit (other than perishable gifts of nominal value that are shared amongst all staff members) from a Patient or Resident or their family that is for services provided or arrange for as required by law or agreement, or that may be perceived to:

¹ See 5 CFR § 2635.203(b)

- Reasonably influence or be perceived as influencing his/her decision making regarding purchases, contracts or any other official duty or that he/she knows or should know is being offered with the intent to influence his/her decisions;
- Induces his/her disclosure of confidential information acquired in his/her position; or
- Induces his/her exercise of official powers or duties in favor of another.

Any gift or benefit offered to an Affected Individual, or department or other Samaritan entity, in exchange for, or based on, prescribing or providing specific services or products is a violation of the AKS and cannot be accepted.

Affected Individuals shall not accept gifts or benefits offered in exchange for performing marketing tasks in the course of practicing medicine or providing research and development services.

Gifts from a Vendor. To protect Samaritan and Affected Individuals, all business relations with vendors will be conducted at arm's length both in fact and appearance. Affected Individuals may accept gifts or benefits from a vendor, if the value of the gift or benefit:

- is related to a bona fide educational purpose;
- is not in the form of cash, gift certificates/card, checks, or negotiable instruments; and
- the benefit does not exceed more than \$100 per-person per-day.

Meals provided by vendors with no educational or legitimate business component as part of a meeting are prohibited to avoid the appearance that they are being provided solely to influence Samaritan patronage.

(Please Note: Only when, and in conjunction with, bona fide education provided by a vendor or as part of a legitimate business meeting may Affected Individuals partake in food provided by a vendor.)

Generally, Affected Individuals are not permitted to accept gifts or benefits that exceed \$300 in value in any one year from any vendor that has a business relationship with Samaritan.

Gifts may be solicited from vendors only if such solicitations are for an educational event sponsored by a Samaritan department or entity and the solicitations are part of a community-wide fundraising event. The vendor's response to the solicitation must be voluntary and not motivated by intent to induce referrals or to induce purchase of the vendor's products or services. Solicitations must not be limited only to those vendors providing services to Samaritan.

Receipt of gifts or benefits from vendors may be accepted when they are of such limited value that they could not reasonably be perceived by anyone as an attempt to affect the judgment of the recipient. For example, token promotional gratuities from suppliers, such as advertising novelties marked with the donor's name, are not prohibited under this policy.

Gifts from a Patient or Resident or their Family or Representative. In accordance with 10 NYCRR Section 415.26 and 18 NYCRR Section 487.5, Affected Individuals shall not accept gifts

or remuneration other than perishable items of nominal value that are shared amongst staff, from a patient or resident or their families or representatives for services provided or arranged for as required by law or agreement.

Physician Specific Guidelines. In addition to the policy statements listed above, physicians employed or contracted by Samaritan are also required to comply with the guidance published in the AMA Code of Medical Ethics as follows:

- Individual gifts of minimal value from vendors are permissible as long as the gifts are related to the physician's work (for example, pens and notepads).
- Subsidies to underwrite the cost of continuing medical education conferences or professional meetings can contribute to the improvement of patient care and therefore are permissible. Since the giving of a subsidy directly to a physician by a company's sales representative may create a relationship that could influence the use of the company's products, any subsidy should be accepted by the conference's sponsor, who in turn can use the money to reduce the conference's registration fee. Payments to defray the costs of a conference should not be accepted directly from the company by the physicians who are attending the conference.
- Subsidies from industry should not be accepted directly or indirectly to pay for costs of travel, lodging, or other personal expenses of the physicians who are attending conferences or meetings, nor should subsidies be accepted to compensate for the physician's time. Subsidies for hospitality should not be accepted outside of modest meals or social events that are held as part of a conference or meeting. It is appropriate for consultants who provide genuine services to receive reasonable compensation and to accept reimbursement for reasonable travel, lodging, and meal expenses. Token consulting or advisory arrangements cannot be used to justify the compensation of physicians for their time or their travel, lodging and other out-of-pocket expenses.
- Scholarship or other funds to permit medical students, residents, and fellows to attend carefully selected educational conferences may be permissible as long as the selection of students, residents, or fellows who will receive the funds is made by the academic or training institution.
- No gifts or benefits should be accepted if there are strings attached. For example, physicians should not accept a gift if they are given in relation to the physician's prescribing practices. In addition, when companies underwrite medical conferences or lectures other than their own, responsibility for control over the selection of content, faculty, educational methods, and materials should belong to the organizers of the conferences or lectures.

PROCEDURE:

General Guidelines.

- Affected Individuals are strictly prohibited from soliciting any gifts or benefits of any kind from any person or entity, either individually or on behalf of Samaritan, with the exception of authorized solicitation for fundraising purposes.
- Affected Individuals are strictly prohibited from offering or giving any gifts or benefits to government employees or officials.

- Affected Individuals 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.
- Affected Individuals 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.
- Affected Individuals may never accept gifts or benefits that could be perceived as an attempt to interfere with their professional judgment.
- Affected Individuals shall not accept gifts or benefits from a patient or resident or their families or representatives for services provided or arranged for as required by law or agreement; however, it is acceptable to accept (if offered) a modest perishable gift, such as flowers, a box of candy, or similar food items, to be shared by all staff members.

While business dealings may include a shared meal or other similar social occasion, which may be proper business expenses and activities, more extensive entertainment provided by vendors or service providers only rarely will be consistent with Samaritan's policy and should be reviewed and approved in advance by the Chief Compliance Officer or his/her designee, or in the case of employees, by their direct supervisor, who in turn can seek guidance from the Chief Compliance Officer.

Whenever an Affected Individual is not sure whether a gift or benefit is prohibited by this policy, it should be reported to the Chief Compliance Officer upon its receipt.

Affected Individuals may accept invitations to social events in order to further develop business relationships; however, these events must not include expenses paid for any travel or overnight lodging. The cost associated with such an event must be reasonable and appropriate. For purposes of this policy, this means that the cost will not exceed \$100 per person.

Affected Individuals may be permitted to accept invitations to attend training, educational or informational opportunities that may include travel and overnight accommodations. However, prior to accepting any such invitation, Affected Individuals must receive written approval from the Chief Compliance Officer, or in the case of employees, from their direct supervisor, who in turn can seek guidance from the Chief Compliance Officer.

Business courtesies that would influence or appear to influence an Affected Individual in the conduct of his/her duties or responsibilities for Samaritan must always be declined.

RELATED POLICIES:

None

REFERENCES:

AMA Code of Medical Ethics, Gifts to Physicians from Industry Opinion 8.061
 New York State Codes, Rules and Regulations Title 10 Section 415.26(h) and Title 18 Section 487.5(a)(3)(xiv)(b)(6)(ix)

RELATED FORMS:

None

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