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	<b>BUSINESS COURTESIES TO PHYSICIANS AND IMMEDIATE FAMILY MEMBERS</b>	<b>Effective Date: 09-27-11</b>
		<b>Retires Policy Dated: 04-01-10</b>
		<b>Previous Versions Dated: 11-01-07; 02-12-07; 01-01-07; 08-17-04; 09-01-03</b>

## I. SCOPE:

This policy applies to (1) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates (each, an “Affiliate”); (2) any other entity or organization in which Tenet Healthcare Corporation or an Affiliate owns a direct or indirect equity interest greater than 50%; and (3) any hospital or healthcare facility in which Tenet Healthcare Corporation or an Affiliate either manages or controls the day-to-day operations of the facility (each a “Tenet Facility”) (collectively, “Tenet”).

## II. PURPOSE:

The purposes of this policy are to provide guidance with respect to how compensation in the form of certain items and services is treated under the non-monetary compensation exception and the medical staff incidental benefits exception of the Federal “Stark” law and to incorporate relevant guidance issued by the Office of Inspector General of the Department of Health and Human Services with respect to certain arrangements that may potentially implicate the Federal “Anti-kickback” statute.

## III. DEFINITIONS:

- A. **“Physician”** 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.
- B. **“Immediate family member or member of a physician’s immediate family”** means husband or wife; birth or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.


## IV. POLICY:

Except for bona fide employment arrangements with physicians, all business courtesies offered to Physicians and/or their immediate family members must meet the guidelines stated in this policy. Nothing in this policy permits the use of a business courtesy that is intended to induce or reward the referrals of patients or that is intended to induce or reward the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by Medicare or State health care programs.

## V. PROCEDURE:

- A. Applicable Stark Law
  - 1. Non-Monetary Compensation Exception

A “financial relationship” as defined under the Stark Law is not created through the provision of compensation from an entity to a physician or an immediate

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family member in the form of items or services (not including cash or cash equivalents) that does not exceed an aggregate of \$300 per calendar year, adjusted for inflation on an annual basis, if all the following conditions are satisfied:

- a. The compensation is not determined in any manner that takes into account the volume or value of referrals or other business generated by the referring physician.
- b. The compensation may not be solicited by the physician or the physician's practice (including employees and staff members).
- c. The compensation arrangement does not violate the Federal anti-kickback statute, section 1128B(b) of the Act, or any Federal or State law or regulation governing billing or claims submission.
- d. Where an entity has inadvertently provided nonmonetary compensation to a physician in excess of the limit such compensation is deemed to be within the limit if (i) the value of the excess nonmonetary compensation is no more than 50 percent of the limit; and (ii) the physician returns to the entity the excess nonmonetary compensation (or an amount equal to the value of the excess nonmonetary compensation) by the end of the calendar year in which the excess nonmonetary compensation was received or within 180 consecutive calendar days following the date the excess nonmonetary compensation was received by the physician, whichever is earlier.

2. **Medical Staff Incidental Benefits Exception**

A "financial relationship" as defined under the Stark Law is not created through the provision of compensation in the form of items or services (not including cash or cash equivalents) from a hospital to a member of its medical staff when the item or service is used on the hospital's campus, if all of the following conditions are met:

- a. The compensation is provided to all members of the medical staff practicing in the same specialty (but not necessarily accepted by every member to whom it is offered) without regard to the volume or value of referrals or other business generated between the parties.
- b. Except with respect to identification of medical staff on a hospital Web site or in hospital advertising, the compensation is provided only during periods when the medical staff members are making rounds or


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are engaged in other services or activities that benefit the hospital or its patients.

- c. The compensation is provided by the hospital and used by the medical staff members only on the hospital's campus. Compensation, including, but not limited to, Internet access, pagers, or two-way radios, used away from the campus only to access hospital medical records or information or to access patients or personnel who are on the hospital campus, as well as identification of the medical staff on a hospital Web site or in hospital advertising, will meet the "on campus" requirements of this paragraph.
- d. The compensation is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at the hospital.
- e. The compensation is of low value (that is, less than \$25, adjusted annually for inflation) with respect to each occurrence of the benefit (for example, free cafeteria meals available to a physician while he or she is rounding in the hospital must be of low value).
- f. The compensation is not determined in any manner that takes into account the volume or value of referrals or other business generated between the parties.
- g. The compensation arrangement does not violate the Federal Anti-kickback provision in section 1128B(b) of the Act, or any Federal or State law or regulation governing billing or claims submission.

**B. Examples of Business Courtesies**


1. Except as otherwise provided herein, examples of business courtesies that must be included as "compensation" under the Stark Law non-monetary compensation exception and **must** be tracked by the Tenet entity include, but are not limited to, the following:
  - a. business related meals not furnished in connection with an executed, bona fide personal services arrangement as discussed in Section V.B.2.e. and Section V.B.2.f. herein;
  - b. sporting events or other similar events such as theater and concerts, including the cost of the tickets and a pro rata allocation of the cost of the meal;

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- c. local recreational events, such as fishing, boating, hunting and golfing, including cart fees and meals, but excluding the value of the charitable contribution if the event is a charity event;
- d. CME seminars held off-campus and all CME seminars held on-campus if the value of the on-campus CME seminar is greater than \$25 per invited physician per occurrence;
- e. flowers or other gifts provided physicians or their immediate family members when they are hospitalized or to recognize a special event, such as a birthday;
- f. room allowances or other financial benefits provided to physician governing board members at a governing board retreat if the benefit is not offered to all governing board members and if the compensation or benefit is not listed as compensation for the member's services in his or her appointment letter;
- g. prizes and awards given on special days, such as "Doctor's Day;"
- h. holiday gifts given to governing board members and Chiefs of Staff in recognition of the time and energy expended on behalf of the hospitals and communities they serve;
- i. subject to Section V.B.2.g. below, holiday parties for the hospital's employees and their spouses where all the physicians on the hospital's medical staff are invited; and
- j. subject to Section V.B.2.g. below, holiday parties only for the medical staff and their spouses where all members of the medical staff are invited.

In no event can the hospital provide a Physician with cash or cash equivalents, such as gift certificates, under any of the above situations.


- 2. Examples of business courtesies that meet the medical staff incidental benefits exception, the nonmonetary compensation exception, or that meet another Stark exception and thus do not need to be tracked include, but are not limited to, the following:
  - a. free or discounted meals (such as meals served in the physician's lounge), parking and computer/internet access provided in the hospital, so long as they are provided to all members of the medical staff without regard to the volume or value of referrals;

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- b. CME seminars held on campus provided the value of the CME seminar is less than \$25 per invited physician per occurrence, or compliance training held in the local service area where the primary purpose of the seminar is compliance training, regardless of cost (see the attached FAQ);
- c. governing board retreats where the hospital pays for travel, food and lodging for all its governing board members and the benefit is included as compensation in the member's appointment letter. In addition, the hospital may pay for leisure activities of its physician governing board members and the physician's spouse provided the benefit is provided to all governing board members and the benefit is included as compensation in the member's appointment letter;
- d. meals served at governing board meetings, whether held on-campus or off-campus;
- e. meals provided to an existing member of the medical staff and their spouse where the purpose of the meal is to recruit a physician or other provider to the community and the meal is attended by the Tenet representative, the existing physician member and the recruit and is pursuant to an executed agreement furnished by the Tenet Facility's Regional Counsel;
- f. business related meals where the purpose is to discuss the physician's duties under a services agreement with the hospital where (i) the agreement specifically contemplates such business meals, and (ii) the meal is modest as judged by local standards and occurs in a venue conducive to conducting a meeting; and
- g. one local medical staff appreciation event per calendar year for the entire medical staff, such as a holiday party, provided the entity has a formal medical staff and the event is on or after December 4, 2007. Any gifts or gratuities provided in connection with the medical staff appreciation event are subject to the nonmonetary compensation amount and must be tracked and logged.

C. Other Items

The Tenet Facility CEO or other administrative personnel, including senior management, are not barred from paying for social events such as meals or golf for physicians and the physician's immediate family members who are personal friends. The CEO or other administrative person may not submit the expenditure for

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reimbursement from the Tenet facility or Tenet and may not claim the expenditure as a business expense on their personal tax return. Tenet does not expect or encourage this activity as a way of avoiding the limitations otherwise set forth in this policy, and the administrative team and senior management should avoid the appearance of impropriety in this type of personal entertainment. Tenet anticipates that such events would be infrequent and reciprocal.

D. Facility Implementation

Business courtesies that fall within the non-monetary compensation exception set forth above **must** be tracked using the Physician Comp Log application located on eTenet, whereas business courtesies that fall within the medical staff incidental benefits or other exception need not be tracked.

E. Auditing and Monitoring

Tenet Audit Services is responsible for auditing Tenet’s compliance with this policy through its routine audit processes.

F. Responsible Person

Each Tenet Facility CEO is responsible for ensuring that all individuals adhere to the requirements of this policy. If the CEO is unable to create adherence to this policy, the CEO shall immediately report the non-adherence to this policy to the Hospital Compliance Officer.

G. Enforcement

All employees whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Failure to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, up to and including termination. Such performance management may also include modification of compensation, including any merit or discretionary compensation awards, as allowed by applicable law.

**VI. REFERENCES:**

- 42 U.S.C. 1320a-7b; 42 C.F.R. 1001.952(a)-(a)
- 42 U.S.C. 1395nn; 42 C.F.R. §§411.350-411.361 (Stark Regulations)
- [Office of Inspector General of the Department of Health and Human Services Draft Supplemental Compliance Program Guidance for Hospitals, dated June 8, 2004](#)