

## Stony Brook Medicine Administrative Policy and Procedures

<b>Subject:</b> ELD0109 Gifts	<b>Published Date:</b> 04/14/2023
Leadership	<b>Next Review Date:</b> 04/14/2026
<b>Scope:</b> SBM Eastern Long Island Campus	<b>Original Creation Date:</b> 12/02/2020

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### Responsible Department/Division/Committee:

Office of Compliance and Audit Services

### Policy:

Hospital Representatives of Stony Brook University Hospital and its campuses (collectively, SBUH) are committed to promoting integrity and honesty and ensuring that activities and business interactions with patients, families, vendors, physicians and other health care professionals comply with federal and state laws and regulations relative to business gifts and other gratuities. Gifts may be permissible or impermissible depending on the circumstances. No personal gifts can be offered or received if the action could raise a reasonable question concerning whether the gift would influence a person in the exercise of proper business judgment or is intended as a reward for any action on the Hospital Representative's part.

### Definitions:

**Anti-Kickback Statute (AKS)** – refers to a criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs (e.g., drugs, supplies, or health care services for Medicare or Medicaid patients).

**Gifts** – refer to anything of value an individual receives where that individual did not pay or perform services in a manner consistent with routine commercial transactions. Examples of gifts include, but are not limited to, cash, gift cards, services, loans, travel, lodging, meals, refreshments, entertainment, discounts, industry invitations or a forbearance of an obligation or a promise that has monetary value.

**Hospital Representatives** – employees, volunteers, trainees, medical staff members, including state, research foundation, professional employer organization, personnel employed through contracted agencies, the governing body, contracted or subcontracted agents, vendors or consultants who furnish products or services on behalf of SBELIH and other individuals affiliated with SBUH regardless of whether the individual is paid by SBELIH.

**Immediate Family Member** – shall include spouse; birth and adoptive parents, children and siblings; stepparents, stepchildren and stepsiblings; fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law; and grandparents and grandchildren. (NY PHL §238. Definitions).

**Interested Source** – A person or entity that does or is seeking to conduct business with SBELIH. Interested sources include, but are not limited to, pharmaceutical, biotechnology, medical device and other healthcare-related entities.

**Nominal Value** – is considered such a small amount that acceptance could not reasonably be interpreted or construed as intending to influence a state employee or public official. Items of insignificant value, such as food or beverages less than fifteen dollars, are considered nominal. Alcoholic beverages, cash, and cash equivalents (e.g. gift cards) regardless of value are not allowed.

**Promotional Items** – Items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an entity's name, logo, or message in a manner which promotes the entity's cause.

**Remuneration** – refers generally to a payment.

## **Procedures:**

### I. Gifts and Interactions with Interested Sources

- A. Hospital Representatives are prohibited from soliciting, offering or accepting gifts from Interested Sources. Gifts to or from Interested Sources raise a reasonable question concerning whether the gift would influence a person in the exercise of proper business judgement or is intended as a reward for any official action on the Hospital Representative's part and may violate the Anti-Kickback Statute.
- B. Hospital Representatives may not accept meals brought to SBELIH from an Interested Source, as this may be viewed to influence or potentially influence individuals in the conduct of their duties or responsibilities. However, meals provided by an Interested Source at professional or

similar off-site meetings may be permissible under the following circumstances:

- a. The meal is provided in a manner consistent with Accreditation Council for Continuing Medical Education (ACCME) guidelines (e.g. the Industry Representative is not presenting sales materials and food is incidental to the presentation); or
  - b. The meal is incidental to a bona fide discussion and presentation of scientific, educational or business information related to a pharmaceutical, biotechnology, medical device.
- C. Hospital Representatives seeking support from an Interested Source, for the benefit of SBELIH, that furthers an educational purpose of SBELIH and without intent to influence purchasing decisions or research outcomes must notify the Office of Continuing Medical Education or the Office of Compliance and Audit Services. Note any support provided to SBELIH must be provided without conditions.
- D. Hospital Representatives may not solicit, accept or offer alcoholic beverages regardless of value.
- E. Hospital Representatives may not redirect an impermissible gift to a third party including a family member or charitable organization on behalf of the Hospital Representative.
- F. Hospital Representatives may accept promotional items with no resale value as long as it cannot raise a reasonable question concerning whether the gift would influence a person in the exercise of proper business judgement.
- G. Hospital Representatives may at times accept a complimentary invitation to a widely attended conference or educational event from a vendor or other third-party organization. Several conditions must be satisfied to meet this exception; therefore, before attending, Hospital Representatives must notify the Office of Compliance and Audit Services ("OCAS") or the Chief Compliance Officer to review the circumstances and provide guidance.
- H. Hospital Representatives that are recipients of gifts, where there is no opportunity to refuse or return, must disclose the gift(s) to their Supervisor, Manager, the OCAS or the Chief Compliance Officer for guidance.
- I. Hospital Representatives must always consider the timing and frequency of a gift. For example, a gift of nominal value during the

holiday season may be appropriate as long as acceptance does not create an actual or apparent conflict of interest or give the impression of improper influence; however, frequent nominal gifts or a nominal gift provided during a decision-making process may give the appearance of impropriety.

## II. Gifts and Interactions with Non-Interested Sources

- A. Hospital Representatives may not offer gifts or services to actual (or potential) patients with the intent to induce or influence actual (or potential patients) to order or receive items or services.
- B. Hospital Representatives must not accept cash gifts or cash equivalents (e.g., gift cards, gift checks or gift certificates) in any amount from patients, family members or their visitors.
- C. Hospital Representatives may accept tokens of appreciation, of nominal value (e.g., perishables, flowers, cooked goods) from patients as long as the token is unsolicited and shared with the recipient's team, unit or department.
- D. Hospital Representatives may accept gifts from patient's family members or resulting from personal relationships where it is reasonable to infer the gift was primarily motivated by the familial or personal relationship.
- E. Hospital Representatives may accept awards, plaques, and other ceremonial items that are publicly presented, or intended to be publicly presented, and in recognition of service related to the Hospital Representative's official duties and responsibilities. Such awards, plaques, and other ceremonial items must be of the type customarily bestowed at similar ceremonies and be otherwise reasonable under the circumstances.
- F. Hospital Representatives are not prohibited from exchanging gifts of a personal nature with other employees, provided hospital funds are not utilized and the Hospital Representatives have complied with Policy ELD0101 Conflict of Interest.

## III. If you have any questions about this policy or require additional

guidance, please contact OCAS or the Chief Compliance Officer.

**Forms:** (Ctrl-Click form name to view)

None

**Policy Cross Reference:** (Ctrl-Click policy name to view)

**These cross-references supersede this policy in the event of a conflict between them.**

[EHR0031 Vendor Credentialing Management System](#)

[ELD0101 Conflict of Interest](#)

[ELD0039 Corporate Compliance Code of Conduct](#)

[ELD0071 Reporting of Compliance Violations or Suspected Violations and Non- Intimidation/Non-Retaliation](#)

[ELD0103 Marketing Events and Premium Items](#)

[EMM0019 Pharmaceutical Representatives](#)

**Relevant Standards/Codes/Rules/Regulations/Statutes:**

Public Officer's Law, Section 73 and 74

19 NYCRR Part 930, 931 & 933

Public Health Law, Section 238-a

PHRMA Code on Interactions with Healthcare Professionals

**References and Resources:**

None