



COMPLIANCE: BUSINESS COURTESIES TO POTENTIAL REFERRAL SOURCES

Purpose:

To establish parameters for the extension of business courtesies to potential referral sources or their immediate family members. To establish parameters for the receipt by Boulder Community Health (BCH) of business courtesies from potential referral sources or referral recipients, or their immediate family members.

Scope:

Applies to all BCH locations, all staff and all physicians who do business with BCH, regardless of whether they hold medical staff membership or clinical privileges, except this policy does not apply to physicians who are employees of BCH.

Policy Statements:

- On behalf of BCH, a BCH staff member may extend business courtesies, as defined and described below, to a potential referral source or his/her immediate family members provided the total value of such business courtesies does not exceed \$385, or such amount determined by the Compliance Officer and published on the Compliance page of the Scoop, per calendar year.
- Nothing in this policy permits any business courtesy or other benefit that is understood by either party to be offered or provided as an inducement to refer patients or business or as a reward for such referrals, nor may a business courtesy be extended to a potential referral source who solicits it.
- The Hospital or its employees may not receive business courtesies from potential referral sources or referral recipients, or their immediate family members.
- Use of the Business Courtesies Log, which is available through the Compliance page of the Scoop (see further description of tracking in the Procedure Section of this Policy below), is the preferred method for tracking business courtesies to potential referral sources and their immediate family members.

Please Note: Business courtesies extended to individuals and entities that are **not** potential referral sources are governed by the BCH Code of Conduct. The Code of Conduct also addresses receipt by Hospital employees of business courtesies (*i.e.*, gifts and invitations of entertainment) **from** business associates, including potential referral sources.

Procedural Guideline Statements:

1. An employee may extend a business courtesy to a potential referral source or his or her immediate family members under the following conditions:

- a. It is not cash or a cash equivalent, such as gift certificates, or checks. Vouchers and gift cards are considered cash equivalents (other than gift certificates or cards for hospital services such as the cafeteria or coffee kiosk);
 - b. It does not exceed \$385 in value or cause the total value of business courtesies extended to the same potential referral source or that potential referral source's immediate family members to exceed \$385 for the calendar year;
 - c. It is not determined in any manner that takes into account the volume or value of referrals or other business generated by the referring physician; and
 - d. It is not solicited by the potential referral source.
2. Use of the Business Courtesies Log is the preferred method of tracking business courtesies to potential referral sources and their immediate family members.
 3. Examples of business courtesies that **ARE** within the \$385 limit and must be tracked include:
 - a. a special dinner at a restaurant for potential referral sources and their spouses.
 - b. a dinner at a restaurant or administrator's home to celebrate a milestone for the facility such as the end of a project or the launch of a new service;
 - c. paying the greens or entry fees for a potential referral source for golf (whether one-on-one or for a charity or facility golf tournament);
 - d. providing tickets for potential referral sources and/or their immediate family members to sporting or theatrical (or similar) events;
 - e. providing flowers or other gifts to potential referral sources or their immediate family members when they are hospitalized or to recognize a birthday or other family occasion;
 - f. paying for a potential referral source's CME program costs (unless such costs are to be paid for pursuant to a written professional services agreement).
 - g. hosting holiday or other parties for medical staff members and their spouses or guests **other than one appreciation party per year as described in section 4, f below**; or
 - h. perishable items that are sent to a physician's office when it is anticipated the physician will share in the enjoyment of items. The value to each physician in the practice is the total cost of the item divided by the number of persons who will enjoy the benefit of the items (*i.e.*, total number of physicians and employees in the practice). Such calculation does not need to be determined for food and beverages provided to the office staff. If the physician is expected to participate, or is known to have participated, in a modest meal that the facility provides a practice, and the exact amount attributable to the physician cannot be accurately calculated, the facility is to attribute \$10 toward the physician's business courtesies limit. If the exact amount attributable to the physician is known, the facility should use that amount instead.
 4. The following activities are **NOT** considered business courtesies and may be provided to potential referral sources. **Because they are not considered business courtesies, they do not count toward the \$380 annual business courtesy limit and do not need to be tracked.** Specifically, a facility may:
 - a. confer on potential referral sources who are members of the medical staff benefits valued at less than \$32 per occurrence and which occur within a hospital, ambulatory surgery center or other BCH campus **provided**:
 - i. the benefits are offered only during periods when the potential referral source is making rounds or engaged in other services or activities that benefit the facility or its patients;

- ii. all members of the medical staff practicing the same specialty are offered the same benefit;
- iii. the benefit is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at the facility; and
- iv. the benefit is not determined in any manner that takes into account the volume or value of referrals or other business generated between the parties.

Examples of this exception include:

- free parking in the facility's garage;
 - modest meals in the physician lounge; or
 - hosting a party at the facility to introduce the medical staff to the facility's new Chief Executive Officer.
- b. provide items in exchange for their fair market value price;
 - c. pay the expenses of its board members (including potential referral source board members) to participate in a board retreat, including travel, meals and lodging expenses **pursuant to a professional services agreement that provides for it**, pay for a meal incident to a meeting with a potential referral source to discuss issues relating to the potential referral source's medical directorship on behalf of the facility;
 - d. **pursuant to a letter of appointment that provides for it**, provide dinners for its potential referral sources who attend the facility's medical executive committee (or similar) meetings
 - e. extend professional courtesy discounts in compliance with any facility policy adopted pursuant thereto; and
 - f. provide **one** local medical staff appreciation event (including a holiday party) per year so long as (i) the facility has a formal medical staff, and (ii) all members of the medical staff are invited. However, any gifts or gratuities provided in connection with the event are business courtesies and must be tracked accordingly.
5. The following are also **NOT** considered business courtesies.
- a. An administrator who has become friends with a potential referral source and/or immediate family member and who socializes with such individual(s) may personally pay for the cost of social events, **provided** the administrator not include this item as a business expense for tax purposes and not charge the facility or otherwise receive reimbursement from the facility to cover this expense.
 - b. A potential referral source who is also the spouse of a BCH administrator may attend facility social events in his or her capacity as the administrator's spouse and such events do not count toward the \$380 business courtesies limit and do not need to be tracked.
6. BCH's Compliance Program is responsible for overseeing implementation of this policy.

Definitions:

1. **Business courtesies** include gifts and entertainment. They include items of value given to another free of cost, as well as social events sponsored or hosted by the Company such as meals, sporting events, theatrical events and receptions. Examples in the Procedure Section of this Policy further elaborate on what is and is not included in this definition. Such gifts, entertainment or other items of value given to an individual by the individual's direct employer are not considered business courtesies for purposes of this policy.
2. **BCH staff member for** purposes of this policy is defined as any employee of BCH or any of

its affiliates.

3. **Immediate family member** includes: husband or wife; natural 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.
4. **Potential referral recipient** for purposes of this policy includes physicians or others to a BCH facility may be in a position to provide referrals, such as (but not limited to) anesthesiologists, pathologists, radiologists, and hospital-based physicians.
5. **Potential referral source** includes: 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, whether or not an employee of an BCH affiliated entity. It does not include any such doctors who do not provide clinical care or order tests (*e.g.*, physicians who provide non-clinical consulting or other leadership services to an BCH affiliated entity and do not provide clinical services, such as non-referring Chief Medical Officers).
6. **Solicit** means to request or ask for a business courtesy. It does not include a situation in which a physician asks for something that may be commonly known to be available and the facility provides prior notice to the medical staff that such item is available (*e.g.*, tickets to a sporting event on a particular night, when it is known the facility has season tickets generally available and the facility announced that such tickets would be available in advance of the physician asking for the item).

Resources:

Compliance Officer
Human Resources

References:

1. 42 U.S.C. §1320a-7b; 42 U.S.C. §1001.952(a)-(a); 42 U.S.C. §1395 nn; 66 Fed. Reg. 856, 961-962 (January 4, 2001); 69 Fed. Reg. 16054 (March 26, 2004)

Policies:

Code of Conduct
Gifts, Sponsorships, Gratuities, and Business Courtesies
Conflicts of Interest

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