
Non-Solicitation-Compliance with Anti-kickback Statute

Federal Regulations: Federal Anti-Kickback Statute. CFR 42411.357(k)	Effective Date: February 27, 2023
State Regulations:	Revision Date(s): February 27, 2023

PURPOSE: This policy is designed to ensure that Hospice and its staff and activities comply with the requirements of applicable federal and state law, including, but not limited to, the Federal Anti-Kickback Statute and state anti-kickback statutes and regulations.

This policy provides guidance to ensure that Hospice’s activities do not interfere with a patient’s freedom to choose health care providers.

This policy provides guidance to Hospice’s staff to ensure that their interactions with healthcare providers are perceived as appropriate by patients, competitors, regulators, and the public at large.

POLICY: Hospice and its staff, may not offer or pay any remuneration to potential patients or referral sources in return for their use of Hospice services or for referring patients to Hospice for services including, but not limited to, items and services for which payment may be made in whole or in part under a federal or state health care program.

Hospice, and its staff, may not solicit or receive any remuneration in return for referring persons for health care or other services including, but not limited to, items and services for which payment may be made in whole or in part under a federal or state health care program. The concept of improper remuneration includes the giving of anything of value, not just money. Remuneration may include cash payments, free services, and certain discounts.

Hospice does not submit or cause to be submitted to federal healthcare programs claims for patients who were referred pursuant to contracts or financial arrangements that were designed to induce such referrals in violation of the anti-kickback statute or similar federal or state statutes or regulations.

PROCEDURE:

- 1) Staff may not furnish or offer anything of value to healthcare providers (HPs) in return for referring or arranging for the referral of patients to Hospice, for a commitment to continue referring patients, or to induce any person to refer business to Hospice. Hospice prohibits any conduct that could be construed as an illegal kickback.
- 2) Interactions with HPs are to benefit patients, enhance the quality of hospice services, and provide education about Hospice’s services.
- 3) Staff is prohibited from providing to HPs cash and cash equivalents (e.g., checks, stocks, frequent flier miles, gift certificates, and debt forgiveness), except as fair market value compensation for bona fide services actually performed pursuant to a written agreement.
- 4) Nonmonetary compensation (business courtesies, gifts, and incidentals) to HPs and their office staff from Hospice is permitted in the form of items or services that does not exceed an

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aggregate of \$300 per calendar year, adjusted for inflation if all of 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, i.e., it is not given to influence, incentivize or reward HPs.
 - b) The compensation may not be solicited from the physician.
 - c) The compensation arrangement does not violate the anti-kickback statute or any Federal or State law or regulation governing billing or claims submission.
 - d) All nonmonetary compensation is tracked.
- 5) Contracts and arrangements with actual or potential referral sources are reviewed and entered into in accordance with Hospice policies to ensure compliance with applicable statutes and regulations.
- 6) Any payment agreements between Hospice and HPs and/or referral sources are in writing.
- 7) Informational presentations and discussions by staff to HPs provide valuable educational benefits and are, therefore, permitted with the following limitations:
- a) Informational materials, including, but not limited to, patient handouts, educational brochures and folders that contain information regarding the appropriate use, payment for, and benefits of hospice services, must be drafted in accordance with applicable federal and state laws.
 - b) Meals (occasional) may be offered to HPs in connection with informational/educational meetings and presentations, as long as:
 - i) They are modest as judged by local standards and occur in a venue and manner conducive to informational communication.
 - ii) A Hospice representative must be present throughout the meeting and meal.
 - iii) The purpose of the meeting is to further the HP's knowledge of the topics being presented.
 - iv) Costs are tracked as part of compensation aggregate (see 4 above).
- 8) Third-Party educational conferences and professional meetings, such as continuing medical education, can contribute to the improved patient care. Therefore, financial support from Hospice is permissible, but with the following limitations:
- a) Since the giving of any subsidy directly to a HP by Hospice may be viewed as an inappropriate cash gift, any financial support for an educational conference should be given only to the conference's sponsor.
 - b) Financial support may not be offered or paid to HPs for the costs of travel, lodging, or other personal expenses of individuals attending the conference.
 - c) A conference or professional meeting means any activity, held at an appropriate location, where the:
 - i) Gathering is primarily dedicated, in both time and effort, to promoting educational activities and discourse (one or more educational presentation(s) should be the highlight of the gathering), and
 - ii) Main incentive for bringing attendees together is to further their knowledge on the topic(s) being presented.
 - iii) Costs are tracked as part of compensation aggregate (see 4) above).

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- 9) Gifts to patients or potential patients: Items or services of nominal value (not more than \$10 per item, or \$50 in the aggregate on an annual basis) may be offered to a patient. Cash or cash equivalents are not permitted regardless of the amount of the cash or cash equivalent.
- 10) Employees should never allow gifts or business courtesies to influence relationships, business decisions or referrals.
 - a) Any gifts given to employees for the purpose of influencing the employee must be declined.
 - b) Any gifts must be reported to the employee's direct supervisor.