

KING'S DAUGHTERS MEDICAL CENTER

**MEDICAL STAFF AND
ADMINISTRATIVE POLICY**

*** POLICY AND PROCEDURE**

EFFECTIVE DATE: 02/08/16

**SUPERSEDES POLICY DATED:
(COMPLIANCE PROGRAM
POLICY A(3): 6/21/12);
(MEDICAL STAFF AND
ADMINISTRATIVE POLICY:
02/18/14; 12/1/10; 10/1/08; 12/1/07)**

FILE: SECTION I(31)

**SUBJECT: NON-MONETARY
COMPENSATION TO
PHYSICIANS AND THEIR
IMMEDIATE FAMILY
MEMBERS AND MEDICAL
STAFF INCIDENTAL
BENEFITS**

POLICY: The purpose of this policy is to provide guidance with respect 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.

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 arrangement for any good, facility, service, or item paid for by Medicare or State health care programs.

DEFINITIONS:

1. “Physician” means a duly licensed 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.
2. “Immediate family member” or “member of 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.

3. “Cap” means the current dollar amount for the non-monetary compensation exception and the medical staff incidental benefits exception of the Stark Law that is adjusted annually for inflation by Center for Medicare and Medicaid Services (CMS).

PROCEDURES:

1. Non-Monetary Compensation Exception. The Medical Center may provide non-monetary compensation to a Physician or an immediate family member of a physician if it satisfies an exception to the Stark Law. The Medical Center may provide non-monetary compensation if the following conditions are met:
 - a. The non-monetary compensation is not in the form of cash or a cash equivalent (*e.g.*, a gift certificate);
 - b. The non-monetary compensation does not take into account the volume or value of referrals;
 - c. The non-monetary compensation was not solicited, directly or indirectly, by the Physician or his or her immediate family member;
 - d. The non-monetary compensation does not, when added to all other non-monetary compensation in a calendar year, exceed the cap established by CMS;
 - e. The non-monetary compensation does not violate the Federal Anti-Kickback provision or any Federal or State law or regulation governing billing or claims submission; and
 - f. The non-monetary compensation is reported to the Medical Center’s Department of Medical Affairs using the attached *Non-Monetary Compensation Reporting Form*, and tracked by that department.

Examples of non-monetary compensation include, but are not limited to, staff events such as picnics or golf tournaments; welcome gift baskets; birthday gifts; “Doctor Day” gifts; gifts for holidays; tickets to sporting events; concerts; performances; service awards; gift certificates; and thank you gifts.

The Stark Law provides that the Medical Center may host one (1) annual local social event for the entire Medical Staff without including the cost of the social event in the non-monetary compensation annual cap limit for those physicians attending the social event; the gifts and/or giveaways at the social event still count towards the annual cap limit.

2. Medical Staff Incidental Benefits Exception. The Medical Center may provide medical staff incidental benefits to a member of the medical staff when the item or service is used on the Medical Center’s campus, if all 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 or referrals or other business generated between the parties;
- b. Except with respect to identification of medical staff on a hospital web site or in Medical Center advertising, the compensation is provided only during periods when the medical staff members are making rounds or are engaged in other services or activities that benefit the Medical Center or its patients;
 - c. The compensation is provided by the Medical Center and used by the medical staff members only on the Medical Center's campus;
 - d. The compensation is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at the Medical Center;
 - e. The compensation does not, in a calendar year, exceed the cap established by CMS;
 - f. The compensation is not determined in any many that takes into the account the volume or value of referrals or other business generated between the parties; and
 - g. The compensation arrangement does not violate the Federal Anti-Kickback provision or any Federal or State law or regulation governing billing or claims submission.

Examples of medical staff incidental benefits include, but are not limited to, free or discounted meals such as those served in the physician's lounge; meals served at governing board meetings and/or medical staff committee meeting; and computer/internet access provided in the Medical Center.

- 3. Exceeding the CMS Cap. If the Medical Center inadvertently provides non-monetary compensation or that does not satisfy an exception and does not meet the procedures and limits outlined in this policy:
 - * a. The Medical Center's Department of Medical Affairs shall immediately notify the Compliance & Integrity Department of the error.
 - b. If (i) the value of the excess non-monetary compensation does not exceed 50% of the yearly cap established by CMS; (ii) the Physician returns the excess non-monetary compensation or business courtesies (or, if not feasible, a dollar amount equal to the value thereof) by the end of the calendar year in which it was received or within 180 days of receipt (whichever is earlier), and (iii) the exception is used no more than once in a three-year time frame by the Physician, the compensation will be deemed to be within the CMS yearly cap.
- 4. Maintenance of Non-Monetary Compensation Log. All non-monetary compensation will be recorded and maintained by the Medical Center's Medical Affairs Department.

5. Education. The Medical Affairs Department will, no less than annually, provide education to applicable departments and team members, of this policy and reporting obligations. Medical Affairs will maintain documentation of education.
- * 6. Reporting. Annually, the Medical Center's Medical Affairs Department will provide to the Compliance & Integrity Department a report itemizing non-monetary compensation given to Physicians or their immediate family members.

President, Medical Staff

President/CEO

Non-Monetary Compensation Reporting Form

Name of reporting team member: _____

Department: _____ KDMC ext.: _____

Physician or immediate family member the non-monetary compensation was provided:

Date on which non-monetary compensation was provided: _____, 20__

Description of non-monetary compensation:

Value/cost of non-monetary compensation: \$ _____

Reason for giving non-monetary compensation: _____

Was the non-monetary compensation given?

- In exchange for services rendered
- Pursuant to a written contract

Signature of reporting team member: _____

Date: _____, 20__

Submit the completed form to the Medical Affairs Department