Title: Corporate Compliance - Compensation and Business Courtesies - Policy

I. Policy Statement
   a. Business courtesies, non-monetary compensation and incidental benefits may only be extended to physicians or their immediate family members or potential referrals sources as provided for in this policy. At no time may a benefit be offered or provided as an inducement to refer patients or business, or as a reward for such referrals or business.
   b. This policy establishes requirements for the provision of business courtesies, non-monetary compensation, and incidental benefits (collectively, “benefit(s)”) to physicians or their immediate family members or potential referral sources in accordance with Federal and Missouri laws, including the Anti-Kickback Statute (42 U.S.C. 1320a-7b) and the physician self-referral law (“Stark”; 42 U.S.C. 1395nn).

II. Definitions
   a. Immediate Family Member: a 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.
   b. Potential Referral Source: Any health care providers other than physicians.

III. Process/Content
   a. Bona Fide Employee Exemptions and Other Compensation Rules for Employees
      i. Any amount paid by MU Health to a physician (or immediate family member) who has a bona fide employment relationship with MU Health for the provision of services is permissible if the following conditions are met:
         1. The employment is for identifiable services.
         2. The amount of remuneration under the employment is:
            a. Consistent with the fair market value of the services; and
b. Except as provided in the Stark law, is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician.

3. The remuneration is provided under an agreement that would be commercially reasonable even if no referrals were made to the employer.

4. Stark law does not prohibit payment of remuneration in the form of a productivity bonus based on services performed personally by the physician (or immediate family member).

ii. A physician's compensation from a *bona fide* employer or under a managed care contract or other contract for personal services may be conditioned on the physician's referrals to a particular provider, practitioner, or supplier, provided that the compensation arrangement meets all of the following conditions. The compensation arrangement:

1. Is set in advance for the term of the agreement.
2. Is consistent with fair market value for services performed (that is, payment does not take into account the volume or value of anticipated or required referrals).
3. Otherwise complies with an applicable exception.
4. Complies with both of the following conditions:
   a. The requirement to make referrals to a particular provider, practitioner, or supplier is set forth in a written agreement signed by the parties.
   b. The requirement to make referrals to a particular provider, practitioner, or supplier does not apply if the patient expresses a preference for a different provider, practitioner, or supplier; the patient's insurer determines the provider, practitioner, or supplier; or the referral is not in the patient's best medical interests in the physician's judgment.

5. The required referrals relate solely to the physician's services covered by the scope of the employment or the contract, and the referral requirement is reasonably necessary to effectuate the legitimate business purposes of the compensation arrangement. In no event may the physician be required to make referrals that relate to services that are not provided by the physician under the scope of his or her employment or contract.

b. Non-Monetary Compensation to Non-Employee Physicians
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i. Non-monetary compensation may only be extended to a non-employee physician or their immediate family member(s) under the following conditions:
   1. It is not cash or a cash equivalent, such as gift certificates, gift cards, vouchers, or checks;
   2. It is not determined in any manner that takes into account the volume or value of referrals or business generated;
   3. It is not solicited by a physician or any person on behalf of a physician; and
   4. It does not violate the Federal Anti-Kickback laws or any other Federal or Missouri laws governing billing or claims.

ii. The total value of non-monetary compensation per calendar year may not exceed the amount set by CMS which can be found at http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates.html.

iii. Any non-monetary compensation provided shall be reported to the Office of Corporate Compliance.
   1. The fair market value of the non-monetary compensation shall be reported, not the cost to MU Health.
   2. Whenever possible, the report shall be made prior to extending the non-monetary compensation and verification made that the amount of the compensation does not exceed the annual limit.

iv. If a non-employee physician or their immediate family member(s) has received non-monetary compensation in excess of the annual limit, such compensation is deemed to be within the annual limit if:
   1. The value of the total compensation is no more than 50% greater than the annual limit; and
   2. The individual returns the excess compensation by the earlier of the end of the calendar year in which the excess compensation was received, or within 180 calendar days following the date that the excess compensation was received.

v. If the individual has received excess compensation, he/she shall be notified and requested to promptly reimburse the excess amount.

c. Medical Staff Incidental Benefits
   i. Compensation in the form of items or services, excluding cash or cash equivalents, to members of the Medical Staff are permissible if all of the following conditions are met:
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1. The incidental benefit is offered to all members of the Medical Staff practicing in the same specialty without regard to the volume or value of referrals or other business generated between MU Health and the Medical Staff member;

2. The incidental benefit is provided only during periods when the Medical Staff members are making rounds or are engaged in other services or activities that benefit MU Health or its patients (identification on a website or in advertising is permissible);

3. The incidental benefit is used only on the campus (internet access, pagers, or two-way radios to access medical records or patients or personnel on the campus are permissible);

4. The incidental benefit is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services;

5. The value of each occurrence of the incidental benefit is below the CMS limit which can be found at http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates.html;

6. The incidental benefit is not determined in any manner that takes into account the volume or value of referrals or other business generated between MU Health and the Medical Staff member; and

7. The provision of the incidental benefit does not violate the Federal Anti-Kickback laws or any other Federal or Missouri laws governing billing or claims.

ii. No tracking of such incidental benefits is required.

d. Exceptions

i. Compliance training may be provided to a non-employee physician or office staff of the non-employee physician or their immediate family member(s) provided that it is held in the local community or service area.

ii. A Medical Staff appreciation event may be provided annually within the local community or service area. Any gifts provided in connection with the event are subject to the non-monetary compensation limit.

e. Potential Referral Sources

i. No business courtesy or non-monetary compensation may be provided to any potential referral source without the written approval of the Chief Compliance Officer.
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IV. Attachments
   a. Not Applicable.

V. References, Regulatory References, Related Documents, or Links
   a. Questions about this policy and its application and interpretation, or for research and guidance, should be directed to the MU Health Office of Corporate Compliance at 573-882-2460.