

**EPIC MANAGEMENT, L.P.
BEAVER MEDICAL GROUP, L.P.
EPIC HEALTH PLAN**

**ADMINISTRATIVE POLICY AND PROCEDURE
COMPLIANCE**

SUBJECT: Gifts, Gratuities, Business Courtesies, and Other Non-Monetary Compensation	
DRAFTED BY: Sherry Miller, CCO	DATE: 8/17/2020
REVIEWED BY:	DATE:
REVISED BY:	DATE:
APPROVED BY: Compliance Committee	DATE: 8/17/2020
BOARD APPROVAL DATE: N/A	
EFFECTIVE DATE OF POLICY: 9/1/2020	

1. **PURPOSE:** This EPIC Gifts, Gratuities, Business Courtesies, and Other Non-Monetary Compensation Policy (1) provides a statement of EPIC’s commitment to ensuring that Personnel members do not solicit, receive, offer, pay, or give, Remuneration, including gifts, that would run afoul of federal and state laws aimed at preventing health care fraud and abuse, and (2) sets forth EPIC’s compliance restrictions regarding gifts and non-monetary remuneration, which are aimed at ensuring compliance with such fraud and abuse laws.
2. **ATTACHMENTS:** N/A.
3. **DEFINITIONS:**
 - a. All capitalized terms used but not defined in this Policy shall have the meaning attributed to them in the EPIC Compliance Program Definitions Policy.
 - b. In addition, the following capitalized terms shall have the following meanings for purposes of this Policy:
 - i. “Anti-Kickback Statute” refers to the Federal Health Care Program anti-kickback statute, 42 U.S.C. § 1320a-7b(b).
 - ii. “Beneficiary Inducement Law” refers to the civil monetary penalty law at 42 U.S.C. §1320a-7a(a)(5).

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- iii. “DHS Entity” refers to any entity that furnishes or bills the Medicare fee-for-service program for designated health services, as that term is defined under the Stark Law. DHS Entities can include physician practices (like BMG) and institutional healthcare providers and suppliers (such as hospitals and clinical laboratories).
 - iv. “Financial Relationship” refers to either a compensation arrangement in which remuneration is exchanged between a DHS Entity and a physician (e.g., employment, personal services arrangement) or an ownership or investment interest pursuant to which a physician holds an equity interest in a DHS entity (e.g., shareholder, partner, or limited liability company member). A compensation arrangement and an ownership/investment interest can be direct or indirect.
 - v. “Health Care Manufacturer” refers to any manufacturer of drugs, devices, equipment, supplies, or any other items that may be reimbursed, in whole or in part, by a health care payor (including, but not limited to, a Federal Health Care Program). Health Care Manufacturers include, e.g., pharmaceutical manufacturers.
 - vi. “Immediate Family Member” refers to a spouse or civil union partner; 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 the spouse of a grandparent or grandchild.
 - vii. “Non-Monetary Compensation” refers to Remuneration in the form of items or services.
 - viii. “Referral Source” refers to any person or entity that is in a position to refer patients to or otherwise generate business for EPIC that may be reimbursed, in whole or in part, by a health care payor (including, but not limited to, a Federal Health Care Program). The term “Referral Source” includes the Referral Source and their Immediate Family Member(s).
 - ix. “Remuneration” refers to anything of value, including a salary, stipend or fee, a free or discounted item, a loan, a gift, and the like.
 - x. “Stark Law” refers, collectively, to the federal physician self-referral statute, 42 U.S.C. § 1395nn, 42 U.S.C. § 1396b(s), and the implementing regulations at 42 C.F.R. § 411.350 *et seq.*
4. **POLICY:** EPIC is committed to ensuring that Personnel members do not solicit, receive, offer, pay, or give, Remuneration, including gifts, that would run afoul of

federal and state laws aimed at preventing health care fraud and abuse, including, but not necessarily limited to, the Anti-Kickback Statute, the Stark Law, the Beneficiary Inducement Law, and their California law counterparts.

5. **PROCEDURE:**

a. **Overview**

- i. Various federal and state laws and regulations are aimed at preventing fraud and abuse in Federal Health Care Programs and other health care payment contexts (“Fraud and Abuse Laws”). Fraud and Abuse Laws include, for example, the Anti-Kickback Statute, the Stark Law, and the Beneficiary Inducement Law.
 - (1) The Anti-Kickback Statute prohibits any person from knowingly and willfully soliciting, receiving, offering, or paying Remuneration with a purpose of inducing patient referrals or otherwise generating business for which payment made be made, in whole or in part, by a Federal Health Care Program.
 - (2) The Stark Law prohibits patient referrals and billing for services furnished to improperly referred patients regardless of “purpose,” if the referring physician has a Financial Relationship with the DHS Entity (e.g., a hospital) and no statutory or regulatory exception applies.
 - (3) The Beneficiary Inducement Law prohibits any person from offering or transferring to a Medicare or Medicaid beneficiary any Remuneration that the person knows or should know is likely to influence the beneficiary to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, by Medicare or Medicaid.
- ii. This Policy includes EPIC’s guidelines with respect to the exchange of gifts and common forms of Non-Monetary Compensation, which guidelines are aimed at ensuring EPIC’s compliance with Fraud and Abuse Laws.
 - (1) This Policy does not apply to arrangements in which there is an exchange of financial Remuneration (i.e., cash or cash equivalents, such as general purpose debit cards). Those arrangements are addressed in EPIC’s Contractual Arrangements with Referral Sources and DHS Entities Policy.

(2) For all other types of Remuneration not addressed in this Policy, the Corporate Compliance Officer (or their designee) must be consulted prior to the Remuneration being offered, accepted, requested, paid, or given.

iii. Compliance with this Policy is mandatory, unless an exception has been granted by the Corporate Compliance Officer in writing and in advance.

(1) Exceptions to this Policy are discouraged and will not be issued with regularity.

(2) In determining whether to grant an exception to this Policy, the Corporate Compliance Officer will consult with Health Care Counsel, as appropriate.

b. Prohibited Gifts and Remuneration

i. In no event may any Personnel member offer, pay, or give any gift or other Remuneration to a Referral Source for the purpose of inducing the Referral Source to refer patients to or otherwise generate business for EPIC that may be reimbursed, in whole or in part, by a health care payor (including, but not limited to, a Federal Health Care Program).

ii. In no event may any Personal member solicit or accept any gift or other Remuneration from any person or entity with respect to which (or whom) the Personnel Member has occasion to refer patients or otherwise generate business that may be reimbursed, in whole or in part, by a health care payor (including, but not limited to, a Federal Health Care Program).

iii. In no event may any Personnel member offer or give any gift or Remuneration to a patient that the Personnel member knows or should know is likely to influence the patient to order or receive any items or services from EPIC that may be reimbursed, in whole or in part, by a health care payor (including, but not limited to, a Federal Health Care Program). In all instances, EPIC shall respect patients' freedom to select the provider, supplier, or practitioner of their choice, and shall act in the best clinical interests of the patient.

iv. The gifts and Remuneration addressed in Sections 4.c and 4.d of this Policy are permissible only if (in addition to the applicable requirements in those sections) the requirements in this Section 4.b are met.

c. Products Offered or Given to Patients; Gifts from Patients

i. Product Samples.

- (1) BMG physicians and Advanced Practice Practitioners may offer or give samples of medical products to patients, provided, however, that:
 - (a) To the extent that the physician or Advanced Practice Practitioner recommends any product to the patient, they will do so in an honest, accurate, complete, and non-coercive manner that is consistent with and honors the patient's freedom of choice and is designed to serve the patient's best interests; and
 - (b) The physician or Advanced Practice Practitioner will not seek reimbursement for the sample from any third person or entity, including any Federal Health Care Program.

ii. Promotional Items for Patients.

- (1) Personnel may offer or give patients items of nominal value (e.g., pens, notepads, calendars, etc.) to promote awareness of BMG's clinical programs, provided, however, that:
 - (a) No such promotional item may have a retail value of more than \$15 per item or \$75 in the aggregate per patient on an annual basis.
 - (b) The item may not be cash or a cash equivalent (e.g. general purpose debit cards).
- (2) All promotional items for patients must be reviewed and approved in advance and in writing by the Corporate Compliance Officer (or their designee). This compliance review and approval must be obtained even if the promotional item complies in all respects with this Policy.
- (3) The Corporate Compliance Officer shall maintain a centralized and computerized log of all promotional items given to patients, including their retail value.

iii. Gifts from Patients.

- (1) Personnel are prohibited from soliciting gifts or any other Non-Monetary Compensation from patients or their families.
- (2) A BMG physician or Advanced Practice Practitioner may accept modest, perishable gifts from patients or their families

(e.g., a floral arrangement, or a box of cookies, candy, or similar food items), provided that such gifts are not solicited.

d. **Gifts or Non-Monetary Compensation Offered or Given to BMG Physicians**

i. Non-Monetary Compensation from BMG to BMG Physicians and Advanced Practice Practitioners.

- (1) BMG may offer or provide Non-Monetary Compensation (i.e., “business courtesies”) to employed BMG physicians and Advanced Practice Practitioners, provided that such Non-Monetary Compensation does not cause the total employment compensation paid to the employed physician or Advanced Practice Practitioner to exceed fair market value.
 - (a) If the employed physician or Advanced Practice Practitioner is required, as a condition of employment, to make referrals to BMG, the Non-Monetary Compensation also must be set in advance in writing.
- (2) BMG may offer or provide Non-Monetary Compensation (i.e., “business courtesies”) to contracted physicians or Advanced Practice Practitioners, provided that:
 - (a) The Remuneration does not exceed the annual aggregate amount set forth by CMS (for CY 2020, \$423);
 - (b) The Remuneration is not determined in any manner that takes into account the volume or value of referrals or other business generated by the BMG physician or Advanced Practice Practitioner;
 - (c) The Remuneration is not solicited by the BMG physician or Advanced Practice Practitioner; and
 - (d) The arrangement does not violate the Anti-Kickback Law or any federal or state law governing billing or claims submission.

ii. Medical Staff Incidental Benefits from Hospitals and Other DHS Entities.

- (1) “Medical Staff Incidental Benefits” are items and services that are made available by hospitals to physicians or Advanced Practice Practitioners that serve as members of

its medical staff for use on the hospital campus. (Note. This Section 4.c.ii also applies to Medical Staff Incidental Benefits provided by any other DHS Entity that has a bona fide medical staff to a BMG physician or Advanced Practice Practitioner.)

- (a) Examples of Medical Staff Incidental Benefits include lab coats; free or discounted meals (such as meals served in the physicians' lounge); parking and computer/internet access provided in the hospital; and Continuing Medical Education seminars held on the hospital campus.
- (2) If a BMG physician or Advanced Practice Practitioner is a member of a hospital's medical staff, the BMG physician or Advanced Practice Practitioners may accept Medical Staff Incidental Benefits from the hospital if all of the following conditions are satisfied:
- (a) The item or service at issue is not in the form of cash or a cash equivalent (e.g., general purpose debit cards);
 - (b) The item or service is offered to all members of the medical staff or to all members of the medical staff who practice in the same specialty (e.g., all urologists);
 - (c) The item or service is offered and provided without regard to the volume or value of referrals or other business generated by the BMG physician or Advanced Practice Practitioner;
 - (d) The item or service is reasonably related to the provision of medical services at the hospital;
 - (e) The value of the item or service less than the limit imposed by CMS (for CY 2020, less than \$36);
 - (f) The item or service is provided and is used by the physician or Advanced Practice Practitioner only on the hospital's campus (though internet access, pagers, or two-way radios, used away from the campus only to access hospital medical records or information or to access patients or personnel who are on the hospital campus, as well as the identification of the medical staff on a hospital website

or in hospital advertising, is deemed to meet this “on campus” requirement); and

- (g) The provision of the item or service does not violate the Anti-Kickback Statute or any federal or state law or regulation governing billing or claims submission.

iii. Other Gifts or Non-Monetary Compensation from DHS Entities.

- (1) With the exception of gifts and Non-Monetary Compensation from BMG and Incidental Medical Staff Benefits, all gifts and Non-Monetary Compensation from DHS Entities must be reviewed and approved in advance and in writing by the Corporate Compliance Officer (or their designee) before being accepted by any BMG physician or Advanced Practice Practitioner.

iv. Informational Presentations by Health Care Manufacturers.

- (1) BMG physicians and Advanced Practice Practitioners may attend presentations by Health Care Manufacturers, and accept meals in connection with such events, provided that all of the following conditions are met:
 - (a) The presentation provides scientific or educational value;
 - (b) The meal is modest in value, not part of an entertainment or recreational event, and is provided in a manner conducive to informational communication; and
 - (c) The presentation and meal are conducted in a BMG facility, or in another modest and reasonable location.

v. Product Samples from Health Care Manufacturers.

- (1) BMG physicians and Advanced Practice Practitioner may accept product samples from Health Care Manufacturers, provided that all of the following conditions are met:
 - (a) Acceptance of the sample is not conditioned, in any manner, on the BMG physician or Advanced Practice Practitioner (i) purchasing or ordering any products or services from the Health Care Manufacturer;
 - (b) Acceptance of the sample is not conditioned, in any manner, on the BMG physician Advanced Practice

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Practitioner recommending any products or services from the Health Care Manufacturer;

- (c) To the extent that the BMG physician or Advanced Practice Practitioner recommends any products or services from the Health Care Manufacturer, they will do so in an honest, accurate, complete, and non-coercive manner that is consistent with and honors each patient's freedom of choice and is designed to serve the patient's best interests.
- (d) The BMG physician or Advanced Practice Practitioner will not seek reimbursement for the sample from any third person or entity, including any Federal Health Care Program.