

THE CENTER FOR DISCOVERY

SUBJECT: Anti-kickback—Business Courtesies, Gifts and Entertainment Policy	MANUAL: Corporate Compliance
	SECTION: Section 7

Purpose: The Center for Discovery, Inc. (“TCFD”) recognizes that there are legitimate and lawful reasons to accept or provide reasonable business courtesies. However, in healthcare, business courtesies pose a risk for conflict of interest or fraud and/or abuse related to anti-kickback laws and regulations. The Federal Anti-Kickback law prohibits the offer of payment, solicitation, or receipt of anything of value to induce or reward the referral of Federal health care program recipients, such as Medicare and Medicaid recipients. The Federal Anti-Kickback statute also prohibits the payment or receipt of any remuneration that is intended to induce the purchasing, leasing, or ordering of any item or service that may be reimbursed, in whole or in part, under a Federal health care program. It also prohibits the payment or receipt of any remuneration that is intended to induce the recommendation of the purchasing, leasing, or ordering of any such item or service.

The purpose of this policy is to assure that TCFD complies with Federal Anti-Kickback laws. The policy provides guidance for providing business courtesies.

For the purpose of this policy, the following definitions apply:

Affected Individuals: Affected Individuals includes all employees including the Chief Executive Officer, administrative personnel, and Board members as well as any person associated with TCFD (this applies to any person or affiliate who is involved in any way with TCFD such that the person or affiliate contributes to the agency’s entitlement to payment under the Medical Assistance Program and who is not an employee, executive, or governing body member e.g. independent contractors, interns, students, volunteers, and vendors).

Business Courtesies: A business courtesy is anything of value, a favor, or a benefit provided free of charge or at a charge less than fair market value in the context of a business relationship. The Policy applies to gifts, entertainment, and hospitality involving TCFD’s employees or Board members and its referral sources and business partners intended to enhance business relationships and/or further their mutual business interests. Examples include gifts, entertainment, or hospitality for the purposes of inducing:

Referrals for TCFD’s services or treatment;

The purchasing, leasing, or ordering of any item or service; or

The recommendation of the purchasing, leasing, or ordering of any such item or service.

Immediate Family Member: For the purpose of this policy, an immediate family member is any person who is related by blood or marriage, or whose relationship with the employee or Board member is similar to that of persons who are related by blood or marriage. An immediate family member of a person includes:

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The person’s spouse;

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.

Nominal Value: TCFD has determined that items with a value of \$50.00 or less to be of nominal value

Potential Referral Source: A potential referral source includes a physician, other healthcare provider, or party who could reasonably be a source of referral of individuals or patients to TCFD for services or treatment.

Remuneration: Any type of direct or indirect payment, bribe, rebate, or other type of inducement.

Policy: Any business courtesy intended to induce or reward referrals or result in the purchase of goods or services is strictly prohibited.

It is the policy of TCFD that gifts, entertainment, and other benefits will not be provided to a potential referral source, except as permitted by this policy.

Any business courtesies involving physicians or other individuals or entities in a position to refer individuals or patients to TCFD for services must strictly follow TCFD’s policies and be in conformance with all Federal and State laws, regulations, and rules regarding these practices.

Regulatory Reference:

Social Service Law 363-D

18 NYCRR Part 521

Procedures: TCFD’s employees and Board members may not offer a potential referral source or business courtesies unless the following criteria are met:

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The business courtesy is not based, directly or indirectly, on the volume or value of referrals or other business generated by the potential referral source;

The business courtesy is not solicited by the potential referral source or the referral source’s employees;

The business courtesy does not consist of cash or the equivalent of cash; and

The business courtesy does not violate the Federal Anti-Kickback statute or any state or Federal law governing claims submission.

All employees and Board members must receive prior approval from the Corporate Compliance Officer (“CCO”) before extending business courtesies to potential referral sources and business partners. The CCO will record any business courtesy extended to potential referral sources and business partners on the Gifts and Entertainment Recording Log attached to this Policy. The Compliance Officer will ensure that business courtesies are of nominal value.

Employees, Board members, and their Immediate Family Members are prohibited from receiving and/or accepting business courtesies from TCFD’s business partners or potential business partners as an inducement to purchase or lease goods or services.

Employees, Board members, and their Immediate Family Members shall not accept or solicit excessive gifts, meals, expensive entertainment, or other offers of goods or services that have more than a nominal value from vendors, suppliers, contractors, or other persons.

Employees and Board members may only retain gifts from vendors that have a nominal value. Gifts from vendors must be reported to the Compliance Officer and recorded on the Gifts and Entertainment Recording Log. If an employee or Board member has any concern as to whether a gift should be accepted, the Compliance Officer should be consulted. To the extent possible, these gifts should be shared with other individuals/employees at TCFD.

Sanction Statement: Non-compliance with this policy may result in disciplinary action, up to and including termination.

Compliance Statement: As part of its ongoing auditing and monitoring process in its Compliance Program, TCFD will review this policy based on changes in the law or regulations, as TCFD’s practices change, and, at minimum, on an annual basis. Additionally, this policy will be tested for effectiveness on an annual basis or more frequently as identified in accordance with TCFD’s Corporate Compliance Program. Testing will include but is not limited to ensuring that the policy is appropriately followed; the policy is effective; the policy

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has been disseminated to all Affected Individuals, as well as notified of any updates or changes.

Tracking of the criteria above and results of this testing will be completed by the CCO, or designee. Additionally, results will be reported to the Corporate Compliance Committee and Governing Body on a regular basis.

Record Retention Statement:

TCFD will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.

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