

# CORPORATE POLICY

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<b>Title:</b> Business Courtesies to Physicians and Immediate Family Members	<b>Effective Date:</b> 09/22/2021
	<b>Previous Versions:</b> 10-05-20; 04-01-10; 11-01-07; 02-12-07; 01-01-07; 08-17-04; 09-01-03
	<b>Approved By:</b> Executive Leadership Team
	<b>Approval Date:</b> 09/20/2021

## I. Scope:

This policy applies to Tenet Healthcare Corporation and its subsidiaries and affiliates other than Conifer Holdings Inc. and its direct and indirect subsidiaries (each, an “Affiliate”), any other entity or organization in which Tenet or an Affiliate owns a direct or indirect equity interest of greater than 50%, and any entity in which an Affiliate either manages or controls the day-to-day operations of the entity (each, a “Tenet Entity”) (collectively, “Tenet”).

## II. Purpose:

To guide facilities operated by Tenet Entities (each a “Facility”) on how to treat compensation in the form of certain items and services under the non-monetary compensation and medical staff incidental benefits exceptions of the Federal “Stark” law (Exhibit A). To incorporate relevant guidance issued by any governmental agency, including, without limitation, 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.

## III. Definitions:

**Physician:** A 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 and his or her immediate family members. Immediate family member 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.

**Tenet Facility Leader:** CEO, ASC Administrator or other senior-most Facility leader.

## IV. Policy:

Except for benefits provided to bona fide Tenet-employed Physicians that are offered to all Tenet employees, all business courtesies a Facility offers to Physicians and/or their immediate family members must comply with this policy. No Facility may provide a business courtesy that is intended to induce or reward the referrals of patients or the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by Medicare or State health care programs.

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## V. Procedure:

- A. Except as otherwise provided herein, business courtesies that are remuneration under the Stark Law and must be tracked by the Facility include, but are not limited to, the examples listed in Exhibit B.
- B. Business courtesies that meet the medical staff incidental benefits exception, the nonmonetary compensation exception, or another Stark exception and thus do not need to be tracked include, but are not limited to, the examples listed in Exhibit C.
- C. Senior Management and Personal Physician Friends
  - 1. The Tenet Facility Leader, including senior management, is not barred from paying for social events such as meals or golf for Physicians and the Physician’s immediate family members who are personal friends.
  - 2. The Tenet Facility Leader may not submit the expenditure for reimbursement from the Facility or Tenet and may not claim the expenditure as a business expense on their personal tax return.
  - 3. Tenet does not expect or encourage this activity as a way of avoiding the limitations otherwise set forth in this policy, and the administrative team and senior management should avoid the appearance of impropriety in this type of personal entertainment. Such events should be infrequent and reciprocal.

### D. Facility Implementation

Business courtesies that fall within the non-monetary compensation exception must be tracked using the Physician Comp Log application located on eTenet, or such other process approved by Tenet’s Chief Compliance Officer, whereas business courtesies that fall within the medical staff incidental benefits or other exception need not be tracked.

## VI. Enforcement:

All employees whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Failure to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, up to and including termination. Such performance management may also include modification of compensation, including any merit or discretionary compensation awards, as allowed by applicable law.

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## VII. References:

42 U.S.C. 1320a-7b; 42 C.F.R. 1001.952(a)-(a)

42 U.S.C. 1395nn; 42 C.F.R. §§411.350-411.361 (Stark Regulations)

Office of Inspector General of the Department of Health and Human Services Draft Supplemental Compliance Program Guidance for Hospitals, dated June 8, 2004

## VIII. Exhibits

Exhibit A - Non-Monetary Compensation & Medical Staff Incidental Benefits Exceptions

Exhibit B – Business Courtesies that Require Tracking

Exhibit C - Business Courtesies that Do Not Require Tracking

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## Exhibit A - Non-Monetary Compensation & Medical Staff Incidental Benefits Exceptions

### A. Non-Monetary Compensation Exception

The current year Non-Monetary Compensation Cap can be found at [https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysiciansSelfReferral/CPI-U\\_Updates](https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysiciansSelfReferral/CPI-U_Updates).

### B. Medical Staff Incidental Benefits Exception

1. A “financial relationship” as defined under the Stark Law is not created through the provision of compensation in the form of items or services (not including cash or cash equivalents) from a Facility to a member of its medical staff when the item or service is used on the Facility's campus, if all of the following conditions are met:
  - a. The compensation 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 the parties.
  - b. Except with respect to identifying medical staff on a Facility Web site or in Facility 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 Facility or its patients.
  - c. The compensation is provided by the Facility and used by the medical staff members only on the Facility's campus. Compensation, including, but not limited to, Internet access, pagers, or two-way radios, used away from the campus only to access Facility medical records or information or to access patients or personnel who are on the Facility campus, as well as identifying medical staff on a Facility Web site or in Facility advertising, will meet the “on campus” requirements of this paragraph.
  - d. The compensation is reasonably related to the provision of, or designed to facilitate the delivery of, medical services at the Facility.
  - e. The compensation is of low value (that is, less than the Incidental Benefit Cap) each time it is received (for example, each cafeteria meal available to a Physician on a free or discounted basis must be of low value).
  - f. The compensation is not determined in any manner that takes into account the volume or value of referrals or other business generated between the parties.

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- g. The compensation arrangement does not violate the Federal Anti-kickback provision in section 1128B(b) of the Act, or any Federal or State law or regulation governing billing or claims submission.
2. The initial Incidental Benefits Cap was \$25 per instance and is adjusted annually for inflation. The current year Incidental Benefits Cap can be found at [https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysiciansSelfReferral/CPI-U\\_Updates](https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysiciansSelfReferral/CPI-U_Updates)

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### Exhibit B – Business Courtesies that Require Tracking

Except as otherwise provided herein, examples of business courtesies that must be included as “compensation” under the Stark Law non-monetary compensation exception and **must** be tracked by the Facility include, but are not limited to:

- A. Off-campus meals not furnished in connection with an executed, bona fide personal services or employment arrangement.
- B. Sporting events or other similar events such as theater and concerts, including the cost of the tickets and a pro rata allocation of the cost of the meal.
- C. Local recreational events, such as fishing, boating, hunting, and golfing, including cart fees and meals, but excluding the value of the charitable contribution if the event is a charity event.
- D. CME seminars held off-campus and CME seminars held on-campus if the value of the on-campus CME seminar is greater than the Incidental Benefits Cap per Physician attendee per occurrence.
- E. Flowers or other gifts provided Physicians or their immediate family members when they are hospitalized or to recognize a special event, such as a birthday.
- F. Room allowances or other financial benefits provided to Physician governing board members at a governing board retreat if the benefit is not offered to all governing board members and if the compensation or benefit is not listed as compensation for the member’s services in his or her appointment letter.
- G. Prizes and awards, including giveaways provided for “Doctor’s Day.”
- H. Holiday gifts given to governing board members and Chiefs of Staff in recognition of the time and energy expended on behalf of the facilities and communities they serve.
- I. Holiday parties for the Facility’s employees and their spouses where all the Physicians on the Facility’s medical staff are invited.
- J. Holiday parties only for the medical staff and their spouses where all members of the medical staff are invited.

In no event can the Facility provide a Physician with cash or cash equivalents, such as gift certificates, under any of the above situations.

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### Exhibit C - Business Courtesies that Do Not Require Tracking

Examples of business courtesies that meet the medical staff incidental benefits exception, the nonmonetary compensation exception, or another Stark exception and thus do not need to be tracked include, but are not limited to:

- A. Free or discounted meals (such as meals served in the Physician’s lounge), parking and computer/internet access provided in the Facility, so long as they are provided to all members of the medical staff without regard to the volume or value of referrals.
- B. CME seminars held on campus provided the value of the CME seminar is less than the Incidental Benefit Cap per Physician attendee per occurrence or held in the local service area if the primary purpose of the seminar is compliance training, regardless of cost.
- C. Governing board retreats where the Facility pays for travel, food and lodging for all its governing board members and the benefit is included as compensation in the member’s appointment letter. In addition, the Facility may pay for leisure activities of its Physician governing board members and the Physician’s spouse provided the benefit is provided to all governing board members and the benefit is included as compensation in the member’s appointment letter.
- D. Meals served at on-campus medical staff meetings if comparable to physician lounge.
- E. Meals served at governing board meetings, whether held on-campus or off-campus.
- F. Meals provided to an existing member of the medical staff and their spouse where the purpose of the meal is to recruit a Physician or other provider to the community and the meal is attended by the Tenet representative, the existing Physician member and the recruit and is pursuant to an executed agreement furnished by the Tenet Facility’s Operations Counsel.
- G. One local medical staff appreciation event per calendar year for the entire medical staff, such as a holiday party, provided the Facility has a formal medical staff. Any gifts or gratuities provided in connection with the medical staff appreciation event are subject to the nonmonetary compensation amount and must be tracked and logged.