

COMPLIANCE PROCEDURE MANUAL

Section: Reporting and Communication

Number: 5100-01

Subject: Conflicts of Interest

Effective Date: January 22, 2009 **Original Date:** July 19, 2007

Last Revision Date: July 16, 2009 **Last Review Date:** July 16, 2009 **Page 1 of 8**

PROCEDURES

1. **Solicitation:** Colleagues are prohibited from soliciting any Gift, compensation arrangement, or investment or ownership interest from a Vendor or patient.
2. **Exception for Charitable Contributions:**
 - A. Solicitation and acceptance of charitable contributions by the Parkland Foundation are governed in accordance with the Foundation's policies and procedures. The Foundation may solicit or accept donations from Vendors that are unrestricted; are for a designated fund approved by the Foundation's Board of Directors; or, are otherwise approved by the CEO of the Foundation or its Board of Directors. The CEO of the Foundation has the authority to reject any contribution from a Parkland Vendor which he or she believes will inure to the benefit of any individual Parkland employee or member of the medical staff or is designated for reimbursement or payment of specific employee or medical staff travel, meals, entertainment, or educational expenses, or specific Parkland department operating expenses or capital expenditures. This provision does not preclude the Foundation from using Vendor donated funds to pay for its own administrative or operating expenses.
 - B. Parkland employees and members of the medical staff, other than Foundation personnel, may not solicit or accept charitable contributions from Vendors. Parkland Colleagues may not direct Vendors to make donations to the Foundation as a method of circumventing this restriction. If a Vendor informs a Colleague of his or her desire to make a donation, the Colleague may suggest that the Vendor contact the Foundation to discuss Gift giving opportunities. Parkland will not predicate the awarding of business contracts on donations or contributions from Vendors to Parkland, or its subsidiaries, affiliates, and supporting charitable organizations.
 - C. Solicitations authorized by the Parkland CEO, COO or CFO to benefit outside charitable organizations and/or their beneficiaries or victims of tragic events are not prohibited under this policy. Examples of such solicitations include, but are not limited to, the United Way Campaign, the March of Dimes Campaign, and solicitation of sponsorships, clothing, toys and other Gifts for burn victims or victims of other tragedies.
3. **Gifts:** Colleagues may accept Gifts of Nominal Value; however, Colleagues may not accept any Gift in the form of cash or cash equivalents (including gift cards or gift certificates) from Vendors or patients. The total value of nominal Gifts accepted in any 12-

month period from a single individual or entity may not exceed \$250. Occasionally, Vendors or patients will send a small amount of cash or a gift card in the mail to a Colleague. If it is impractical to return such gifts, they should be donated to a charitable organization.

4. **Promotional Items:** Promotional items such as coffee mugs, pens and toys, may be accepted from a Vendor on an occasional basis if such items are of Nominal Value. Colleagues are expected to exercise good judgment and avoid accepting or displaying promotional items that detract from Parkland's professional image or give the impression that Parkland is endorsing or promoting a Vendor's products or services.
5. **Gifts from Patients:** Patients sometimes show their appreciation by giving Gifts of food, flowers, and trinkets to employees and members of the medical staff. When such a Gift is received, the patient should be thanked and the Gift shared with the entire department or donated to a charitable organization. Tips can not be accepted from patients and should be graciously refused. If a patient provides a non-perishable Gift which is believed to exceed Nominal Value, and the Gift can not be politely returned or refused without causing offense or embarrassment, the Gift should be donated to a charitable organization.
6. **Gifts to Patients:** Colleagues may not offer or provide Gifts to patients as a means of inducing patients to obtain services from Parkland or rewarding patients for receiving services from Parkland. In general, Gifts to patients are limited to items with a value of no more than \$10 per item or \$50 in the aggregate. Gifts of cash or cash equivalents are not permitted. At times, Colleagues may desire to assist a needy patient by paying for part of a patient's treatment or some other need. While this is commendable, care should be taken to follow Parkland patient Gift giving policies to ensure that Gifts provided to patients do not appear to be an inducement or reward for the patient's use of Parkland.
7. **Purchasing Decisions:** Under no circumstances may a Colleague solicit or accept any Remuneration from a Vendor in exchange for promoting, recommending or purchasing the Vendor's products or services. A Colleague is prohibited from directly or indirectly influencing any decision regarding the purchase of any item or service from a Vendor if such Colleague has a Financial Interest in the Vendor. Directly or indirectly influencing a decision includes making recommendations, providing evaluations, voting on or promoting the purchase of an item or service. For example, a physician may not promote, evaluate or make a recommendation on a Vendor's product if he or she has accepted or has agreed to accept consulting fees, advisory board fees, royalties, free travel and entertainment, or Gifts of more than Nominal Value from the Vendor.
8. **Vendor Restrictions:** Vendors are strictly prohibited from offering or providing any Remuneration, including Gifts, to a Colleague other than Remuneration that a Colleague may accept pursuant to this policy. Under no circumstances may a Vendor offer or provide any Remuneration to a Colleague with the intent of influencing, inducing or rewarding the Colleague's recommendation or decision to purchase any of the Vendor's products or services. Vendors are prohibited from offering or making charitable contributions to the Parkland Foundation as a means of circumventing this restriction. Vendors are prohibited from making any charitable contribution that will inure to the benefit of any Colleague who is in a position to influence any decision concerning the Vendor.
9. **Vendor Promotions:** In general, Colleagues may not allow Vendors to display or promote their products on Parkland property or at a Parkland function. This is not intended to prevent Parkland managers from having meetings with Vendors to discuss their products where the products are presented to management or to purchasing teams for evaluation.
10. **Vendor Paid Meals, Travel, Entertainment and Educational Expenses:**
 - A. Colleagues may accept a meal of Nominal Value from a Vendor during business meetings.

- B. Vendors may provide meals or other perishable items to a department or group, but in no case may a Colleague solicit such Gifts from a Vendor. The value of these items must be less than \$50 per person and \$1000 in the aggregate. Such Gifts may not be provided more than twice by a Vendor to a particular department or group in any 12 month period.
- C. Colleagues may attend Vendor paid social and athletic events in order to further develop business relationships where the cost or fair market value of the event does not exceed \$100 per person; however, Colleagues may not accept payment or reimbursement of any travel related expenses, including overnight lodging. Colleagues should be mindful of avoiding the appearance of a conflict of interest and exercise good judgment in limiting the number of such events and choosing the most appropriate setting for discussing Parkland business.
- D. Colleagues may attend Vendor sponsored training or educational events, but a Colleague may not accept payment or reimbursement from the Vendor for any travel related expenses, including overnight lodging, or fees, stipends or honorariums for participating in the event. If registration fees are charged to the public for attendance at these events, Parkland will pay these fees. These restrictions do not apply to non-Vendor sponsored trade or professional association events.
- E. Colleagues may not accept payment or reimbursement of travel related expenses, including overnight lodging, associated with site visits or other travel related to reviewing and evaluating a Vendor's products.
- F. Colleagues may not solicit payments or donations from Vendors for sponsoring educational events administered by Parkland; however, Vendors may, if they offer to do so, sponsor educational events administered by Parkland that conform with the ACCME's *Standards to Ensure the Independence of CME Activities*, regardless of whether CME credit is given through the event or if participants include non-physicians. For such events,
 - Vendors may not, in any way, control the content of the educational material, presentations, educational methods or evaluation of the activity;
 - Vendors may not select, provide, control or have the ability to influence the speakers or educators;
 - Vendors may not display or promote their products or services, or distribute information concerning their products or services;
 - Vendors may not provide any Gifts to participants, attendees or event administrators before, during or after the event;
 - Vendors may not pay or reimburse directly to any individual any travel related expenses, including overnight lodging;
 - Vendors may pay for meals subject to the limitation for Vendor paid meals to a department or group, i.e., meals valued at less than \$50 per person and no more than \$1000 in the aggregate, and provided no more than twice in any 12 month period;
 - Speakers and educators must disclose to Parkland and the participants any conflicts of interest, including, but not limited to, any Financial Interest in a sponsoring Vendor if the speaker or educator will be referring to or discussing any of the Vendor's products or services as part of his or her presentation; and,
 - Employees must ensure that all costs associated with the event regardless of any Vendor payment contribution, and/or donation have been pre-approved as part of the employee's annual operating budget.

11. **Vendor Paid Capital Expenditures and Operating Expenses:** Colleagues, other than Foundation personnel, may not solicit or accept payments, contributions or donations from

Vendors to pay for a Parkland department's capital expenditures or operating expenses (except as otherwise provided in this policy for Vendor sponsored educational events and meals). Charitable contributions made by a Vendor to the Parkland Foundation are distributed to Parkland departments through restricted or unrestricted funds established by the Foundation's Board of Directors and as authorized solely by the Foundation's policies and procedures or its Board of Directors. Parkland employees or members of the medical staff may not establish or control restricted or unrestricted funds at the Foundation.

12. **Free Medication Samples:** Free medication samples may be accepted only for use by patients and may not be used by Colleagues. Before accepting any free medication sample, proper authorization must be obtained in accordance with Fiscal Policy 8311-2-18.
13. **Use or Disclosure of Intellectual Property or Confidential Information:**
 - A. Colleagues are expected to use or disclose Parkland Intellectual Property or Confidential Information solely for the purpose of carrying out business activities as part of their authorized duties for Parkland. Use or disclosure of Intellectual Property or Confidential Information in exchange for Remuneration or for any personal gain or advantage, or with the intent of causing harm to Parkland, a Colleague or a patient, is an abuse of a Colleague's position, creates a serious conflict of interest for the Colleague, may violate confidentiality laws and may be considered theft of Parkland property. Such use or disclosure may be subject to prosecution and/or disciplinary action up to and including termination.
 - B. The provision above is not intended to prevent Colleagues from sharing best practices or policies and procedures with other professionals in the healthcare industry for the purpose of improving healthcare operations. Such exchanges of ideas would not usually create a conflict of interest, but Colleagues should exercise good judgment and share mainly information which represents ideas and not data specific to Parkland.
14. **Special Rules Regarding Referring Physicians:**
 - A. Remuneration provided to a referring physician or the physician's employer may not vary based on the volume or value of referrals to, or other business generated for, Parkland.
 - B. Remuneration may not be provided to a referring physician or the physician's employer with the intent of inducing or rewarding the physician's referrals to Parkland.
 - C. Non-cash Compensation, including Gifts, with an aggregate value of up to \$355 may be provided by Parkland to a referring physician during any calendar year as long as the Compensation is not solicited by the physician or the physician's employer and the amount of Compensation is not determined in a manner which takes into account the volume or value of referrals or other business generated by the referring physician. Examples of non-cash Compensation include holiday gift baskets, restaurant meals, and tickets to sporting or social events.
 - D. Medical staff incidental benefits, such as cafeteria meals and parking, may be provided to referring physicians if:
 - the value of each benefit does not exceed \$30 per occurrence and per physician;
 - the benefits are provided to all members of the medical staff in the same specialty without regard to the volume or value of referrals or other business generated between the parties;
 - the benefits are provided only during periods when the medical staff members are making rounds or are engaged in other services or activities that benefit the hospital or its patients;

- the Compensation is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at the hospital; and,
 - the benefits are provided by the hospital and used by the medical staff members only on the hospital's campus. Benefits, including, but not limited to, 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 web site or in hospital advertising, will meet the "on campus" requirement.
- E. Free or discounted compliance training may be provided to referring physicians as long as the training is held in the local community or service area.
15. **Disclosure of Conflicts of Interest:**
- A. Employees
- All employees must complete the Parkland disclosure statement at the time of employment. The recruiter will consult with the Compliance Officer concerning any new hire that has a conflict of interest prior to the new hire's start date.
 - All employees at or above the Unit Manager level and all Purchasing department employees and Facilities Development/Engineering management staff must complete a disclosure statement annually thereafter at the time of the employee's performance appraisal. The disclosure statement is to be submitted to HRIS Records with the employee's performance appraisal. Performance appraisals submitted to HRIS Records without a disclosure statement will be returned to the department and will not be processed until the disclosure statement is received.
 - HRIS Records will maintain disclosure statements for all employees of Parkland. HRIS Records will also notify the appropriate area Vice President of any instances of non-compliance with the requirement for completion of the annual disclosure statement from employees in the jobs noted above. HRIS Records will forward to the Director of Corporate Compliance a copy of each disclosure statement containing a disclosure made by an employee.
- B. Medical Staff
- All members of the medical staff must complete the Parkland disclosure statement when initially appointed and at the time of each reappointment to the Medical Staff. The Vice President of Medical Affairs will consult with the Compliance Officer if a potential conflict of interest is disclosed during the initial appointment or at any reappointment.
 - Medical Staff Services will maintain disclosure statements in the Medical Staff's credentialing file.
- C. Purchasing Decisions
- All employees and members of the medical staff who participate in purchasing decisions must disclose any conflicts of interest prior to participation. Participation may include, but is not limited to, performing evaluations of a product or service, recommending the purchase of a product or service, contract negotiation, voting to purchase a product or service or including a medication in the Parkland formulary.
 - Employees and members of the medical staff who have a conflict of interest must recuse themselves from participation in the decision-making process. If a manager or chairman of a purchasing or product evaluation committee believes extenuating circumstances exist that would allow an individual with a conflict of interest to

participate in the decision-making process, the Compliance Officer should be consulted for a decision.

- D. It is the duty of every employee and member of the medical staff to seek guidance from the Compliance Officer or the Legal Affairs General Counsel prior to engaging in any activity which might lead to a conflict of interest or perception of same with Parkland.
 - E. Employees who fail to comply with this procedure will be subject to corrective action, as outlined in HRIS Procedure 6000-700.
16. The Vice President of Corporate Compliance and the Parkland compliance function may not be subordinate to or under the control of the Parkland CFO or General Counsel.
17. This policy and procedure supersedes the following policies and procedures:
Policy 2000-01 Gifts (Compliance Policy Manual)
Procedure 2100-01 Gifts (Compliance Procedure Manual)
Policy 5000-01 Conflicts of Interest (Compliance Policy Manual)
Procedure 5100-01 Conflicts of Interest (Compliance Procedure Manual)
Policy 8311-2-18 Part 1, Paragraph 2, Vendor Relations Policy (Fiscal Manual)

Legal References:

TEXAS PENAL CODE

**TITLE 8. OFFENSES AGAINST PUBLIC ADMINISTRATION
CHAPTER 36. BRIBERY AND CORRUPT INFLUENCE**

§ 36.02. BRIBERY.

(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

(1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the public servant ceases to be a public servant.

(e) An offense under this section is a felony of the second degree.

§ 36.08. GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(h) An offense under this section is a Class A misdemeanor.

§ 36.09. OFFERING GIFT TO PUBLIC SERVANT.

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

§ 36.10. NON-APPLICABLE. (a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:

(6) an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;

TITLE 3. PUNISHMENTS

CHAPTER 12. PUNISHMENTS

§ 12.21. CLASS A MISDEMEANOR. An individual adjudged guilty of a Class A misdemeanor shall be punished by:

- (1) a fine not to exceed \$4,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and confinement.

§ 12.33. SECOND DEGREE FELONY PUNISHMENT.

(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed \$10,000.

FEDERAL ANTI-KICKBACK STATUTE

United States Code, Title 42, Chapter 7, Part A

Section 1320a-7b. Criminal penalties for acts involving Federal health care programs

(b) Illegal Remunerations

(1) Whoever knowingly and willfully solicits or receives any Remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind -

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility,

service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

(2) Whoever knowingly and willfully offers or pays any Remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person -

(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

Texas Local Government Code Chapters 171 and 176


OIG Compliance Program Guidance for Hospitals, FR Vol. 63, No. 35, February 23, 1998.
<http://oig.hhs.gov/authorities/docs/cpghosp.pdf>

OIG Supplemental Compliance Program Guidance for Hospitals, FR Vol. 70, No. 19, January 31, 2005. Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships; Final Rule, FR Vol. 66, No. 3, January 4, 2001.
<http://oig.hhs.gov/fraud/docs/complianceguidance/012705HospSupplementalGuidance.pdf>

<http://www.cms.hhs.gov/PhysicianSelfReferral/Downloads/66FR856.pdf>
Non-Monetary Compensation and Medical Staff Incidental Benefits Exceptions, CPI-U Updates,
http://www.cms.hhs.gov/PhysicianSelfReferral/10_CPI-U_Updates.asp#TopOfPage

Prior Procedure Reference(s):
HRIS Procedure Conflicts of Interest

Internal Reference(s):
Corrective Action (Human Resources Procedure #6000-700)
Compliance Office and Legal Counsel Protocol and Procedures (Procedure #5100-07)
Gifts (Policy #2000-01)


Compliance Officer