

## **Frequently asked question about giving and receiving gifts**

It is essential that we fulfil our Mission and our commitment to integrity in the delivery of quality patient care and other services. For this reason, our workforce members, including caregivers, board members, volunteers and others are expected to keep relationships with patients and their family members, vendors and potential vendors; non-PSJH employed physicians and other practitioners their office staff; and other third parties impartial and appropriate.

To do this, we must avoid accepting gifts or other items of value including, but not limited to: meals; tickets to events; special favors; loans; discounts; free services; tips; and gratuities.

Remember, cash and cash equivalents, such as a gift card, are never to be accepted unless it comes from within our organization (e.g., from your supervisor or HR).

The purpose of these FAQs is to provide workforce members consistent guidance on accepting gifts and entertainment while fulfilling the Providence St. Joseph Health Mission.

### **Are we allowed to accept a non-cash/cash equivalent gift from a patient?**

We discourage workforce members from accepting gifts from patients or their families or friends. Gifts valued at less than \$100, such as an occasional consumable gift (e.g., fruit basket or box of chocolates) shared among caregivers within your unit or department is acceptable.

### **Are we allowed to accept gifts and/or entertainment from vendors?**

We strongly discourage workforce members from accepting gifts or entertainment from existing or potential vendors. When a workforce member accepts any gift from an existing or potential vendor it can be seen as an influence on our decision-making or a conflict of interest. On a limited basis, workforce members may accept perishable or consumable gifts, valued at less than \$100, that are shared among the unit or department. There are additional gifts that may be allowed, so please consult the [Gifts, Gratuities and Business Courtesies policy](#), for more information on vendor gift acceptance.

### **Are we allowed to accept a prize or award from a vendor drawing?**

We do allow workforce members to accept a prize or award from a bona fide competition held in public, such as a random drawing at a conference or training session. Workforce members are prohibited from participating in drawings that cannot be verified as random (e.g., drawing via email entry).

### **Is the non-cash/cash equivalent gift limit \$50 or \$100?**

Workforce members may accept non-cash/cash equivalent gifts valued at less than \$100 according to the [Code\(s\)/Standards of Conduct](#), and [Conflicts of Interest Policy](#). The Vendor Interactions Policy states: *Workforce members who accept a gift are required to document the source, value and circumstances relating to the gift if valued over \$50.*

So an employee may accept a gift valued at less than \$100, and he or she must disclose where required to do so, or maintain records of receiving a gift from a vendor if more than \$50.

**Are workforce members allowed to accept gifts from their managers?**

Yes, workforce members are allowed to accept gifts from their managers. If your manager is reimbursed by the organization, the gift must meet the de minimis fringe benefit definition (see below), or the gift is seen by the Internal Revenue Service as income and must be reported to our payroll team for tax purposes. The de minimis fringe benefit definition does not apply to cash or cash equivalents, such as gift cards, which are addressed below.

**De minimis fringe benefit**

The term “de minimis” means minor or insignificant and comes from the IRS. A de minimis fringe benefit is one that, considering its value and the frequency with which it is provided, is so small and infrequently provided that accounting for it would be unreasonable or impractical. An item that is considered a cash equivalent is NEVER de minimis, according to the IRS. A PSJH-purchased item valued below \$100 would likely fall under the de minimis fringe benefit exception. Items that have more than a de minimis value or are provided on a more frequent basis would be considered compensation and must be reported to payroll for inclusion in the workforce member’s gross income.

Examples of de minimis fringe benefits that are excludable from income, when infrequent and non-routine, are coffee, doughnuts, flowers or fruit for special circumstances, and group meals. De minimis fringe benefits apply only to accepting gifts from a manager or someone who is employed by one of Providence St. Joseph Health’s ministries.

**Is our organization required by the IRS to tax gift cards/certificates provided to its workforce members?**

Yes, monetary awards such as gift certificates and gift cards are considered “cash equivalents” by the IRS when given to a workforce member. A “cash equivalent” allows the purchase of or redemption for a product or service as if cash were being used. Therefore, gift certificates and gift cards are considered compensation to the workforce member and must be reported through the payroll system (making the gift certificates and gift cards subject to all applicable payroll taxes) regardless of the amount, even if it is a gift card valued at \$5 or less. One exception to this rule would be certificates with no cash value and that are limited to specific purchases (e.g., a latte, a turkey, or a fruit platter).

**Are caregivers allowed to purchase gifts for other co-workers and colleagues?**

Yes, caregivers are allowed to exchange gifts. This can include gift cards as they are not taxed by payroll when they are paid for out-of-pocket by a caregiver. This means the person providing the gift card **must not** be reimbursed by our organization.

Note that this applies to gifts given by a caregiver to a caregiver and not a gift from a board member, volunteer or others to a caregiver. Such an exchange can have different consequences because the board member might be a non-PSJH employed physician or a vendor.

**Can we offer patients gift certificates or some other gift of nominal value as long as we have a tracking process in place?**

The Health and Human Services Office of Inspector General has stated it is OK for inexpensive items or services to be provided to patients. The office defines inexpensive as having a retail value of no more than \$15 per item or \$75 in the aggregate per patient on an annual basis, and the gift cannot be in the form of cash or cash equivalents. Any such gifts provided to patients must be tracked ahead of the purchase by a ministry/facility to assure the \$75 cap is not exceeded. There is an exception that a gift card is allowed for the purpose of customer service recovery under the following conditions:

- The individual gift cards will have a value not exceeding \$15;
- The cards will be redeemable at specific vendors that do not sell items or services paid for by federal health care programs (including Medicare and Medicaid/Medi-Cal);
- The cards cannot be redeemed for cash or for items or services provided by Providence St. Joseph Health; and
- Providence St. Joseph Health has a system for tracking the issuance of the cards, for the purpose of ensuring that individual beneficiaries do not receive multiple cards having an aggregate value in excess of \$75 in one year.

If the above conditions are met, federal guidelines state that *the “gift card is considered nominal in value and will not constitute cash or a cash equivalent.”* The intent of providing a gift or gift card cannot be to entice the patient to use PSJH services.

**Can we host a contest via an approved Facebook site and offer a café voucher to the winning entry?**

Yes, the café voucher must be of reasonable value (less than \$50) and the rules must be clearly detailed upon entry. The Providence Facebook site must have been approved by the communication department.

**How does our [Gifts, Gratuities and Business Courtesies policy](#) apply to speaking engagements for our employed physicians, while on PTO and receiving an honorarium?**

Expectations are the same for employed physicians as it is for other employees.

Paid speaking engagements made on an employee's own time are similar to a second job and differ from speaking engagements at association conferences where your expenses are reimbursed.

The concern arises when the presentation is on behalf of or paid by a vendor that we use or would consider using. The [conflict of interest policy](#) challenges us to avoid an appearance of impropriety. If a physician is asked to speak by an existing Providence St. Joseph Health vendor or prospective vendor because he/she is an employee, the individual is benefiting from our not-for-profit status and the speaking engagement should generally be declined. For those with influence or authority to choose a product or service, it likely would be a conflict of interest, and the speaking engagement should be avoided.

In all cases where the speaking engagement is permitted, and approved by the individual's supervisor, the honorarium should be commensurate with the value of the work provided. The vendor interactions policy provides additional guidance related to the purpose of the speech. If the talk is educational (as at a professional association meeting), then it is usually acceptable. In no case should we endorse products or services.

For our physician groups the medical director or chief medical officer is strongly encouraged to review of our applicable policies and approve/disapprove of the speaking engagement. When unsure, it should be referred to our regional integrity and compliance team. In all cases, the honorarium paid should be reported on the annual conflict-of-interest-disclosure form. The \$100 limit set in the Vendor Interactions/Gift Policy would not apply in these circumstances as any honorarium received would be a fair market value payment in exchange for services rendered (as discussed above).

You should always check your local ministry policies to determine if there is a more stringent employment or other policy to be followed.

**How does the Gifts, Gratuities and Business Courtesies Policy apply to gifts that an independent physician may give to our employees?**

The policy is clear that an employee may accept the gift if it is not cash or a cash equivalent item such as a gift card. The \$100 limit does apply. However, we suggest that management discourage the practice, given the relationship between a physician and Providence St. Joseph Health.

**Can our employees accept an invitation to join a vendor at its table at a charitable event such as a festival of trees?**

Given the important Mission- and business-related role served by PSJH-sponsored charitable events (i.e., where the event is hosted by Providence and the funds raised by the event will benefit a Providence ministry exclusively), Providence employees may attend these types of events as a guest of a third party (including vendors) without making a required donation to Providence St. Joseph Health or a PSJH-related foundation (voluntary donations are encouraged). If you accept an invitation, you should disclose participation on your annual conflict-of-interest-disclosure form and your attendance should be approved in advance by your immediate supervisor.

**Can workforce members accept an invitation to a charitable dinner such as a cancer survivorship dinner?** PSJH Code(s)/Standards of Conduct, under Gifts and Entertainment, lists meals as something to avoid. Meals may be provided when offered in conjunction with a legitimate education function, and when they are reasonable and modest (\$50 or less). The structure of vendor presentations, if included, should consist of content that is commercially unbiased, objective and scientific and should not be a marketing opportunity for any vendor. Promotional activities, to the extent that they may occur, need to be completely separate from the content of the education. If a cancer survivorship dinner exceeds the recommended amount of \$50 or less, it would be inappropriate to attend this event.

Even if individually the amount spent doesn't constitute a "significant financial interest," such activities could be seen as impairments to objectivity.

**Can research programs accept gifts from outside companies?** In addition to the vendor policy, the code of conduct and the Sunshine act, Conflicts of Interest in Research Policy, applies to this scenario. Even if individually the amount spent doesn't constitute a "significant financial interest," such activities could be seen as impairments to objectivity. It is important for Providence St. Joseph Health employees, individually and as an organization to strive to maintain independence and avoid situations where even the appearance of a conflict might exist.

**How do I determine if accepting a gift is appropriate?**

If you need to determine if you may accept a gift, you can do the following:

- Consult with your supervisor or manager
- Consult the Code(s)/Standards of Conduct
- Consider the questions below. If you answer "yes" to any of the questions the gift may not meet Providence St. Joseph Health ethical standards, our Code(s)/Standards of Conduct or legal requirements.
  - Is this a personal gift from someone outside of Providence St. Joseph Health?
  - Is this a cash gift? A gift card? A gift certificate?
  - Would I feel uncomfortable disclosing acceptance of this gift to other Providence St. Joseph Health caregivers/employees? Patients? Friends or family members?
  - Is this gift being offered to me because my job at Providence might influence a decision in favor of the individual or organization offering the gift?

**What should I do if I know someone is violating the Vendor Interactions Policy (or**

**Code(s)/Standards of Conduct?**

If you have knowledge or believe there is a violation of the Code(s)/Standards of Conduct, you should report your concerns to your manager or supervisor. If you are uncomfortable reporting the concerns directly to your manager or supervisor, you may report your concerns confidentially to the Providence St. Joseph Health Integrity Hotline at 888-294-8455 or [Integrity Online](#).

**Where can I find the Code of Conduct?**

You can find a copy of the [Code\(s\)/Standards of Conduct](#) online site.

**How can I get more information if I still have questions?**

Please call the Providence St. Joseph Health Integrity Hotline at 888-294-8455, or contact a Risk and Integrity Services representative.