



Benjamin Chu, M.D., MPH  
President

October 18, 2002

**Operating Procedure No. 20-55**

**Pharmaceutical Company Gifts and Sponsored Educational Programs**

TO: Distribution D  
FROM: Benjamin K. Chu, M.D., President

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1. **Purpose.** To set forth the HHC policy, consistent with employees' obligations under Chapter 68 of the New York City Charter, on gifts from pharmaceutical and other companies which provide or intend to provide medical supplies and/or equipment.

2. **Scope.** This procedure applies to all employees of the Corporation.

3. **Policy.**

A. No employee of the Corporation may accept any compensation, honorarium, stipend, gratuity or gift in any form, including but not limited to, money, service, loans, travel, entertainment, meals and refreshments (except to the limited extent provided in subparagraph B(2), below), tickets to sporting events, theater tickets, drug samples, or any other thing of value offered by or on behalf of a company that provides or intends to provide pharmaceuticals or other medical supplies or equipment (hereinafter referred to as "vendor" or "vendors" whether or not the entity has a direct contractual relationship with the Corporation).

B. Vendors sometimes underwrite, in whole or in part, the costs of continuing medical education ("CME") programs that inform physicians and other employees about new or existing pharmaceutical agents or that otherwise meaningfully educate employees in ways that contribute to improvement of patient care. Accordingly, employees may participate in such educational programs under the following circumstances and restrictions:

(1) **Educational Programs Conducted on HHC Property**

(a) Final responsibility for selection of topics and speakers at continuing medical education ("CME") programs supported by vendor contributions shall rest with the chairperson of a facility's Education Committee or with a physician who is designated by the Medical Board President at the facility for this purpose (in either event, such physician shall hereinafter be referred to as the "Physician Education Officer"). Neither the Physician Education Officer nor any member of the Education Committee shall serve as a member of the

Pharmacy & Therapeutic Committee or any similar committee that makes decisions regarding the formulary. For Correctional Health Services, HHC Health and Home Care, MetroPlus Health Plan and Central Office, final responsibility for selection of topics and speakers at CME programs supported by vendor contributions shall rest with the Senior Vice President for Medical and Professional Affairs.

(b) It is permissible for the brochure of a program to contain a modest acknowledgment of the vendor that is providing financial support for the program. It is not permissible, however, for individual vendor products to be advertised. Similarly, during the course of such a program, a simple announcement may be made that a vendor has provided financial support for the program.

(c) There shall be strict accountability of funds received in connection with educational activities funded by vendors. Any such contribution, together with its purpose, must be acknowledged in writing by the coordinator of that educational program with a copy to the facility Physician Education Officer, the Medical Director, and the Senior Vice President for Medical and Professional Affairs. The supporting vendor shall be clearly informed that the fact of its sponsorship will not have any bearing on purchasing decisions of the Corporation or physician prescribing choices.

(d) Vendors may not provide or underwrite the cost of meals or refreshments provided at educational programs conducted on the Corporation's property. Employees may not accept anything of any value, including speaking fees or other honoraria, for participating in vendor-sponsored CME programs conducted on the Corporation's property.

(2) Educational Programs Conducted off the Corporation's Property

(a) All requests to attend CME programs held off the Corporation's property, where vendors underwrite any cost of attending such programs, shall be made in writing and referred to the facility's Education Committee, or a similar committee, for prior review and written approval. Such requests by employees in Correctional Health Services, HHC Health and Home Care, MetroPlus Health Plan and Central Office shall be referred to the Senior Vice President for Medical and Professional Affairs. This evaluation shall be based on the merits of the educational content of the program. Requests to attend vendor sponsored CME programs shall not be approved if they are conducted at a restaurant. Employees may attend conferences as described in this section but may not attend or participate in any non-educational activities as golf outings, fishing trips, admittance to professional sport, theater or music events, access to resort facilities, and the like, the costs of which are underwritten in whole or in part by a vendor.

(b) Scholarship or other funding from vendors to permit medical students, residents and/or fellows to attend educational programs is permissible only if (i) the selection of students, residents or fellows who benefit from such funding is made by the facility's Education Committee or Physician Education Officer and (ii) the educational conference is approved pursuant to paragraph (2) (a) above.

(c) Employees may accept meals or refreshments offered at an approved, vendor-sponsored CME program conducted off the Corporation's property, provided that the meal or refreshment is offered at the site of the program during or immediately before or

after the educational component. Apart from such meals and refreshments, employees may not accept anything of any value, including speaking fees or other honoraria, for participating in vendor-sponsored CME programs conducted off the Corporation's property.

(d) Employees may attend CME conferences conducted off the Corporation's property without submitting the request set forth in section 3(b)(2)(a), above, even when a vendor underwrites some of the costs, where the primary sponsor is a not-for-profit organization whose mission is to provide medical education and where the conference has been approved for the granting of CME credit. Employees are reminded, however, that they are not to attend any such conference if it is conducted at a restaurant. Employees may attend conferences as described in this section but may not attend or participate in any non-educational activities as golf outings, fishing trips, admittance to professional sport, theater or music events, access to resort facilities, and the like, the costs of which are underwritten in whole or in part by a vendor. Employees may accept meals or refreshments offered at such conferences as set forth in the paragraph above but may not otherwise accept anything of any value, including speaking fees or other honoraria.

C. The facility Medical Director or his/her designee shall be kept informed in writing of all approvals granted in connection with vendor sponsored CME programs and shall be responsible for maintaining all related records.

D. Each facility shall forward the name of its current Physician Education Officer to the Senior Vice President for Medical and Professional Affairs and to the Senior Vice President for Operations within thirty days of appointment.

E. The Department of Internal Audits shall audit periodically each facility's records related to vendor-sponsored CME programs for compliance with this Operating Procedure and render a report to the President and the Senior Vice President for Operations.

F. Any questions about the application of these provisions may be referred to the Senior Vice President for Operations who may confer with the Senior Vice President for Medical and Professional Affairs and the General Counsel in interpreting this Operating Procedure.

G. A written application for an exception to this policy based upon the best interests of the Corporation may be granted by the Senior Vice President for Operations with the concurrence of the Senior Vice President for Medical and Professional Affairs and the General Counsel and only in writing. The General Counsel shall determine whether any such request for an exception implicates the prohibitions under the City's Conflict of Interest Law (Chapter 68 of the City Charter) and, if so, shall refer the matter to the New York City Conflicts of Interests Board (COIB) for a formal opinion.

H. Any employee who violates this Operating Procedure is subject to disciplinary action up to and including termination. In addition, any violation that constitutes a possible breach of the City's Conflict of Interest Law shall be forwarded to the COIB for such enforcement action as it shall deem appropriate.

I. Although this Operating Procedure applies only to the Corporation's employees, an Opinion rendered by the Corporation's Committee on Conduct and Practices and approved by me applies the same restrictions under the Corporation's Code of Ethics. All physicians who are contract service providers under our affiliation contracts, as well as members of our Community Advisory Boards, are covered by the Corporation's Code of Ethics.



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Benjamin Chu, M.D., M.P.H.  
President

December 18, 2003

**CHANGE No. 1**

**Operating Procedure No. 20-55  
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The Operating Procedure shall be amended, effective immediately, to include the attached Addendum A, Clarification of Operating Procedure 20-55. All of the provisions of the Operating Procedure shall remain in effect except to the extent that there is any disagreement between the Operating Procedure and the Addendum, in which case the terms of the Addendum shall govern.

**Addendum A**  
**Clarification to Operating Procedure 20-55**

**I MEETINGS IN RESTAURANTS**

1. An HHC or affiliate employee **may attend** a regularly scheduled **meeting of a professional society** of which the employee is a dues paying member, held in a restaurant, even if the meeting includes some participation and/or sponsorship by a pharmaceutical company, **as long as the meeting is not simply a marketing forum for the company's products.**

2. Other than as included in regularly scheduled meetings of professional societies as described above, HHC and affiliate employees **may not attend** meetings in restaurants underwritten by pharmaceutical companies for the granting of any **category 2 CME or CE** credits.

3. An HHC or affiliate employee **may attend** an educational meeting conducted in a restaurant if **Category 1 CME or CE credits** are being provided by a hospital, medical school, school of pharmacy accredited by the Accreditation Council for Continuing Medical Education or the American Council of Pharmaceutical Education, even if a pharmaceutical company is providing some sponsorship.

4. An HHC or affiliate employee **may not attend** an educational meeting conducted in a restaurant where **CME or CE credits** are being directly **provided by a pharmaceutical company.**

5. An HHC or affiliate employee may attend vendor-sponsored CME programs off the Corporation's property as approved by the facility's Education Committee (see OP 20-55 section 3(B)(2)(a)), including programs conducted at hotels, and may accept meals and refreshments offered events at such events, except that meals and refreshments may not be taken at restaurants except as provided above.

**II MEETINGS ON SITE**

Pharmaceutical companies may not provide meals or refreshments at educational programs conducted at HHC facilities. However, a facility may pay for meals using grants from pharmaceutical companies that are unrestricted or that are restricted for use for educational purposes.

**III GIFTS**

1. An HHC or affiliate employee may not accept a gift from a pharmaceutical company other than gifts of nominal value widely distributed by pharmaceutical companies, such as pens, pads and calendars.

2. A hospital may accept textbooks and/or medical reference books from pharmaceutical companies for distribution to HHC or affiliate employees as long as (1) the books are not solicited by someone with a role in the procurement process or an ability to affect procurement; (2) it is made clear to the pharmaceutical company, in writing, that neither the hospital nor any employee will be giving the company any benefit or thing of value in exchange for the books; (3) the hospital, rather than the pharmaceutical company, decides who will receive the books; and (4) the hospital can justify that the distribution is made in a fair and equitable manner.

#### **IV HONORARIA**

1. HHC and affiliate employees may be part of focus groups run by entities other than pharmaceutical companies only if participation is during non-working hours. A reasonable fee, consistent with the prevailing rate for such participation, may be accepted. Participation in such focus groups and the payment received must be disclosed to the Physician Education Officer who shall be responsible for maintaining records of all such disclosures.

2. HHC and affiliate employees may not accept fees from pharmaceutical companies for speaking or participating in educational programs at HHC facilities. However, an employee may receive a fee from the hospital using grants from pharmaceutical companies that are unrestricted or that are restricted for use for educational purposes provided that (1) it is not part of the employee's regular duties to participate in such educational programs; and (2) the facility, not the pharmaceutical company, selects the speaker.

3. Other than as described above, HHC and affiliate employees may not accept fees from pharmaceutical companies for speaking or participating in educational programs. However, an employee may seek an exception to this policy for good cause by making a written application as described in the Operating Procedure.

#### **V PART TIME EMPLOYEES**

These rules are applicable to part-time employees as well as full-time employees. An employee's part-time status may be taken into account in the granting of an exception to this policy where otherwise appropriate.

#### **VI EXCEPTIONS TO POLICY**

Factors that will be considered in considering a request for an exception to policy include the employee's part-time or full-time status, the nature of the position at the facility and the ability of the individual to effect purchasing decisions, and the nature of the violation sought to be waived and any special circumstances that vitiate the appearance of a conflict. Under no circumstances can a waiver be granted which would allow conduct prohibited by the City's Conflicts of Interest Law.