

## **HEALTH INDUSTRY GROUP PURCHASING ASSOCIATION**

### **CODE OF CONDUCT PRINCIPLES**

#### **INTRODUCTION**

Hospitals and other health care providers have one principal objective: providing high quality care at an affordable price. Achieving this objective is always difficult, but it is particularly challenging now given a steady rise in the costs of health care items and services, and a sharp decline in payor reimbursement levels.

Group purchasing organizations (GPOs) — which enter into contracts with suppliers on behalf of their provider-members — help providers achieve their objectives of providing quality, affordable health care. GPOs do this in several ways. Most importantly, GPOs leverage purchasing power. That is, GPOs represent large numbers of providers and, as such, are able to negotiate lower prices with suppliers for a particular item than most individual providers, acting on their own, generally could.

GPOs also help their members avoid certain costs. For example, the process of procuring items and services — defining institutional needs, identifying quality products, preparing requests for proposal, analyzing responsive bids, and negotiating contract terms — requires specialized personnel, and is both time consuming and costly. GPOs, which are funded in large part by the fees that they receive from suppliers, are able to furnish those procurement services to their members at a minimal, or no, cost.

The services GPOs provide are of critical importance, especially during an era when providers are faced with a wide-range of challenges that put added constraints on the financial well-being of providers. The challenges include:

- More than 40 million Americans without health coverage;
- Severe hospital and health facility workforce shortages;
- Increasing administrative and regulatory burdens;
- Serious challenges in health care liability insurance;
- Skyrocketing costs for many critical new health care products and services;
- The increasing need for standardization of care and product use to improve patient safety, eliminate adverse events and reduce supply costs;
- Reimbursement systems that erect barriers to full deployment of new drugs and technologies;
- Rising costs and declining reimbursement; and
- A new emphasis on readiness in the wake of September 11.

In rising to these challenges, health care providers have pursued strategies to assure the highest level of uninterrupted care for their patients. At the same time, health systems have an obligation — imposed by public and private payers of care — to deliver such services in the most efficient,

cost-effective manner possible. In recognition and appreciation of this obligation, now more than ever before, health systems need access to the cost-saving tools and resources of group purchasing to manage growth in health care costs.

The Health Industry Group Purchasing Association (HIGPA) — in consultation with its member organizations — has prepared these Code of Conduct Principles to help ensure that providers have access to group purchasing organizations that offer necessary services at the lowest possible cost.\* The principles cover several areas, including legal compliance, disclosure of vendor payments, conflicts of interest, product innovation, and a diverse manufacturer base with access to the GPO contracting process.

The organizations within HIGPA recognize that cooperation among health care providers is critical to ensure that patients' best interests are always served. Therefore, we collectively affirm our commitment to the following initiatives aimed at assuring patients' receipt of the highest quality care.

HIGPA's GPO Members are committed to observing these Principles, and to implementing company-specific compliance policies and procedures based upon each GPO's unique business structure and relationships. The Principles set forth below underscore the group purchasing industry's commitment to improving health care and advancing technological innovation at the most manageable cost to providers of care and their patients. These initiatives are designed to assure the operation of a thriving, innovative and competitive health care marketplace. Each GPO shall, at a minimum, incorporate these principles into its own Code of Conduct. Further, each GPO shall be committed to the full implementation of these Principles and shall not take any action that would be contrary to the intent and purpose of these Principles.

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\* These principles were developed through collaboration of HIGPA members and other trade association and industry members. The adoption of these principles affirms the best practices within the industry. Adoption of these principles reflects each GPO's commitment to the highest standards and is not a reflection upon any individual company's past actions or programs.

## I. Principles

### A. Compliance with Applicable Laws

Each GPO shall comply with applicable laws. Each GPO shall stay abreast of changes and new developments in the law and provide compliance training, guidance and education regarding applicable laws for directors, officers and employees.

### B. Conflict of Interest Policies

#### 1. *GPO Employees*

- a. Each GPO shall implement internal policies to require that employees who are in a position to influence the GPO contracting decisions do not accept any gifts, entertainment, favors, honoraria or personal services payments (other than those of Nominal Value) from any Participating Vendor.
- b. Each GPO shall implement internal policies to require that none of its employees who are in a position to influence the GPO contracting decisions for Participating Vendors have an Individual Equity Interest in such Participating Vendors.

#### 2. *GPO Non-Employee Officers, Directors, or Advisors*

- a. Each GPO shall implement internal policies to require that any non-employee officer, director, or member of an advisory board of a GPO, in a position to influence the GPO contracting decisions, who accepts any gifts, entertainment, favors, honoraria or personal services payments (other than those of Nominal Value) from any Participating Vendor discloses such transactions to the appropriate governance body and is recused from any negotiations or decisions relating to such Participating Vendor.
- b. Each GPO shall implement internal policies that require that any non-employee officer, director or member of an advisory board or body of a GPO discloses Individual Equity Interests in any Participating Vendor to the appropriate governance body and is recused from any negotiations or decisions relating to such Participating Vendor.

#### 3. *GPO Corporate Equity Interests*

- a. Each GPO shall implement internal policies ensuring that the GPO does not have any Corporate Equity Interest in any Participating Vendor of Clinical Products or Services, unless the acquisition of such Corporate Equity Interest demonstrably benefits the GPO's Members by creating a

source of a Clinical Product or Service where there is otherwise no other source, or very limited sources.

- b. Each GPO that has a Corporate Equity Interest in a Participating Vendor shall disclose such equity interests to Members in writing. Each GPO in which a Participating Vendor has a Corporate Equity Interest shall disclose such equity interest to Members in writing. Such disclosure should be made (a) at the time the Corporate Equity Interest is obtained if the GPO already has a contract with the Vendor or (b) at the time the GPO enters into a contract with the Vendor if the GPO does not already have a contract with the Vendor, and in each case, at least annually thereafter. GPOs shall also publicly disclose such Corporate Equity Interests.
- c. Each GPO that has a Corporate Equity Interest in a Participating Vendor will impose no obligation, commitment or other requirements or restrictions that in any way obligates any Member to purchase goods or services from such Participating Vendor.

**C. Member Relations, Product Evaluation & Vendor Grievances**

GPOs shall be committed to identifying and making available to Members innovative products and technologies in order to promote high quality and cost-effective health care, and to the free exchange of information relating to clinical, safety and technological and other innovations within the industry. Toward that end, each GPO shall incorporate the following principles in its contractual and business relationships with Vendors and Members:

**1. *Member Communications & Relationships with Vendors***

- a. Each GPO shall implement its policies and contracts in a manner that permits its Members to (a) communicate directly with Vendors, including Vendors that do not have current contracts with a Member's GPO, (b) assess Products or Services provided by a Vendor that does not have a contract with the GPO, and (c) purchase Clinical Preference Products or Services directly from Vendors that do not contract with the GPO.
- b. Each GPO shall implement a contracting process that (a) informs potential Vendors of the process for seeking and obtaining contracts with the GPO and (b) provides any and all interested Vendors with the opportunity to solicit contracts, including but not limited to posting such information on a GPO's website and promptly responding to Vendor inquiries regarding contract opportunities.

**2. *Innovative Product Evaluations***

Each GPO shall individually engage in or otherwise participate in processes and programs that routinely evaluate and provide opportunities to contract for innovative Clinical Products or Services.

**3. *Vendor Grievances***

Each GPO shall adopt policies and procedures that endeavor to address Vendor grievances related to access for innovative Clinical Products or Services.

**D. Use of Contracting Tools**

The goals of the GPO contracting process include promoting quality of patient care and achieving price savings and cost reduction for Members. In order to better achieve those ends, GPOs seek to foster competition among Vendors. To that end, GPOs have contracting tools that include sole source contracting, commitment level requirements, contract length and multi-product line discount arrangements. GPOs should use these tools either alone or in combination only in contracting arrangements that achieve the foregoing goals. These goals are most important in relation to Clinical Preference Products or Services. To the extent that multiple contracting tools are used in the contracting process, each GPO shall consider the following factors in each contractual arrangement to achieve the aforementioned goals: market share of the Participating Vendors, the size of the GPO, the number of Vendors available to provide the relevant product or service, ability of the Participating Vendor to meet the needs of the GPO's Members, and the occurrence of innovation in the relevant product or service category.

**E. Compliance, Certification & Implementation**

**1. *Compliance Officer***

Each GPO shall designate a compliance officer who will be responsible for overseeing compliance with the Code of Conduct adopted by the GPO and the fulfillment of the GPO's reporting requirements.

**2. *Certification***

The management of each GPO member of HIGPA shall certify annually to HIGPA that they are in compliance with the principles. HIGPA will publish an annual report identifying those HIGPA members that have certified their compliance. This certification shall constitute a requirement for membership in HIGPA.

**3. *Implementation, Transition & Updating***

a. Each GPO shall adopt a transition plan supervised by its compliance officer in keeping with these principles in the event (a) an entity becomes

a Participating Vendor to a particular GPO, (b) an employee (i) is in a position to influence the contracting decision for Participating Vendors and currently has an Individual Equity Interest in such Participating Vendors or (ii) is hired or transferred to a position in which the employee would influence the contracting decision for Participating Vendors and has an Individual Equity Interest in such Participating Vendors, or (c) other situations arise to which these principles apply. Each GPO shall seek regular, periodic and timely disclosure of information covered by these conflict of interest principles by directors, officers, employees and advisors.

- b. HIGPA shall assess and update the principles consistent with newly identified best practices and as business practices change to ensure that the goals of avoiding conflicts of interest and promoting competition continue to be achieved.

## **F. Reporting & Education**

### **1. *Industry-Wide Survey***

To promote competition and to evaluate on an ongoing basis the benefits of group purchasing, HIGPA will evaluate and implement, consistent with the antitrust laws, periodic surveys and aggregate reporting of industry-wide information relating to value through cost savings and administrative efficiencies of GPO relationships.

### **2. *Web-Based Vendor Directory***

In order to foster innovation, HIGPA, with the support of its GPO members, shall make available a web-based directory where Vendors can post product information, including information about products that the Vendors consider to be new and innovative.

### **3. *Educational Programs***

HIGPA shall coordinate the development and implementation of industry-wide educational programs focusing on new developments related to clinical innovations, contracting processes and programs, patient safety, public policy, statutory and regulatory requirements and best practices regarding compliance and Code of Conduct principles. As part of this process, the industry will draw upon representatives of GPOs and any Vendors to promote processes and programs to assure availability of new and innovative products to Members through the GPO contracting process.

**G. Disclosure of Vendor Payments**

**1. *Written Agreement***

Each GPO shall have a written agreement with each Member or Member's agent that authorizes the GPO to act as a purchasing agent to negotiate contracts with Vendors to furnish goods or services to each Member.

**2. *Disclosure of Acceptance of Payments***

Each GPO shall disclose in writing to each Member or Member's agent that it receives Payments from Participating Vendors with respect to purchases made by or on behalf of such Member.

**3. *Disclosure of Payments Related to Purchases***

Each GPO shall annually report, or cause to be reported, to each Member or Member's agent the amount of all Vendor Payments received with respect to purchases made by or on behalf of the Member.

**4. *Disclosure of Payments Not Allocable to Actual Purchases***

Each GPO shall annually report, or cause to be reported, to each Member or Member's agent the amount of Payments received pursuant to a Vendor contract that was utilized by that Member, but is not allocable or otherwise reported with respect to the actual purchases of that or any other Member.

**H. Safety, Cost-Reduction & Clinical Comparability**

GPOs shall support programs and processes, such as displaying Universal Product Number ("UPN") or machine-readable bar codes at the unit-of-use level, or other programs and processes, that provide for clinical comparability and improve and promote patient safety and supply-chain cost reduction.

**I. Diversity**

GPOs shall offer or participate in programs that promote diversity among Vendors to include women and minority-owned Vendors.

**II. Definitions**

**A. "Clinical Preference Products or Services"** shall mean those Clinical Products or Services which require substantial training to learn to use and which have a demonstrable effect on patient care outcomes. Accordingly, they are products or services for which a provider has a particular preference based on factors such as the provider's training and

experience, the performance or functionality of such products in a clinical setting and patient clinical outcomes.

- B. “Clinical Products or Services”** shall mean products or services used by providers directly in the provision of health care services to patients.
- C. “Corporate Equity Interest”** shall mean securities, options, warrants, debt instruments (including loans), or rights to acquire any of the foregoing.
- D. “GPO”** shall mean any entity that as all or part of its business activities is authorized to act as the agent of a provider of health care services to enter into contracts with Vendors (“Vendor Contracts”), pursuant to which Vendors agree to sell or furnish goods or services consistent with the terms set forth in the Vendor Contracts. GPOs do not typically take title to products.
- E. “Individual Equity Interest”** shall mean securities, options, warrants, debt instruments (including loans), or rights to acquire any of foregoing, provided, however that the term shall not include: (a) interests in mutual funds or (b) interests held in a blind trust in which all investment decisions are independently managed by a third party and the existence and trust terms are fully disclosed to the appropriate governing body to ensure that the neutrality of the GPO contracting decisions are protected.
- F. “Members”** shall mean any provider of health care services to patients that has an agreement (directly or through an authorized agent) which authorizes the GPO to act as the provider’s purchasing agent to negotiate contracts with Vendors to furnish goods or services to the provider.
- G. “Nominal Value”** shall mean any item, service or other thing of value (not including cash or cash equivalents) that does not exceed \$50 per instance or \$100 in any given calendar year. Any item, service or other thing of value that costs \$10 or less shall not be counted toward the \$100 annual limit.
- H. “Participating Vendor”** shall mean, with respect to a particular GPO, a Vendor that has a contract or submits a formal bid or offer to contract with such GPO to provide goods or services to the GPO’s members.
- I. “Payments”** shall mean all payments by a Vendor of goods or services to a GPO as part of any agreement to furnish goods or services to Members.
- J. “Vendors”** shall mean manufacturers, distributors, suppliers or other entities that sell goods or services to Members.