



## Frequently Asked Questions (FAQs)

Frequently Asked Questions (FAQs) provide general guidance on some commonly asked questions about the Medical Technology Association of NZ Code of Practice.

The Code provides a framework for ethical business behaviour and is not intended to be, nor should it be construed as legal advice. Companies are ultimately responsible for ensuring that their business dealings are consistent with the Code and any other applicable laws and regulations.

The FAQs may be revised from time to time to address additional questions and reflect changing interpretations. Over time there will be more FAQs developed.

## Objectives and Scope of the Code

***Do all New Zealand medical technology companies follow the Medical Technology Association of NZ Code of Practice?***

MTANZ member companies are required to follow the Code. Non-member companies are not required, but are encouraged, to observe the Code, as an industry code.

***Can a medical technology company follow the Code without being a member of the MTANZ?***

Yes, non-member companies are encouraged to observe the Code and do not have to be a member of the MTANZ to do so.

***If a company uses distributors, consultants or agents, do they have to follow the Code?***

Yes. The Code requires that companies ensure that any person or body who represents or advances the interests of the company (including employees, consultants or agents) conducts themselves in a way which complies with the MTANZ Code.

## Company Training and Education

### Clause 5.1: Company-sponsored Training and Education and Medical Technology Demonstrations

***We would like to arrange a visiting surgeon program. The program would involve surgeons meeting with the visiting surgeon who has experience with our company's technology to view the use of the technology in procedures. Which section of the Code would apply to such a program?***

Clause 5.1 of the Code applies to Company-sponsored Medical Technology Demonstrations.

Under this clause, the Company can pay for reasonable travel, modest lodging and modest hospitality costs for the healthcare professionals attending the demonstration.

***Can a Company pay the host surgeon who is visiting under such a program?***

Companies can engage a host surgeon as a consultant pursuant to clause 5.6 of the Code. Clause 5.6 allows reasonable compensation to be paid for consulting services.

***A New Zealand healthcare professional will be holidaying in Singapore and has heard about a Company sponsored training workshop in Shanghai in the same week. She has asked if she can register for the workshop as there isn't an equivalent workshop in New Zealand. Can the Company fund the HCP to the workshop under the Code?***

The Company can invite the Healthcare Professional to attend a company sponsored training workshop if a legitimate need for the Healthcare Professional to receive the training exists. A Company can pay reasonable travel costs. It would not be reasonable to fund the Healthcare Professional's trip from New Zealand to China given that they will already be in Singapore for personal reasons. It is reasonable to arrange modest travel and accommodation so that the healthcare professional can travel from Singapore to Shanghai return for the training workshop.



***Can we offer training and education on issues that are not in relation to medical technologies, such as supply chain management, to hospitals?***

The Code permits companies to provide training and education, which is defined as the provision of educational material, product specification material, lectures and training sessions to HCPs in relation to medical technologies. Training and education which does not relate to medical technologies may be construed as a gift or benefit rather than permitted training and education under the Code.

In relation to supply chain management, general training on supply chain management is too broad unless it is related to your company's medical technologies.

***Are ski resorts and tropical islands out of bounds for company training and education sessions for healthcare professionals?***

The Code requires that company sponsored training and education is conducted in a clinical, educational, conference or other setting that is conducive to the effective transmission of knowledge and is not selected because of its leisure or recreational facilities.

The choice of venue must also be able to successfully withstand professional and public standards of ethics and good taste. Training and Education may not be held at a Resort Location, which means a venue that promotes itself or may be reasonably perceived by the public to be a resort with an emphasis on leisure and recreation. Holding company training at a well known tourist destination may well attract negative public perception and complaints, regardless of the specific venue chosen for company training. This risk is heightened if the training will be held during a well known tourist season at the location, such as ski season. Companies may find it useful to consider both the venue and surrounding town/region when deciding whether the training and education will meet the Code's requirement of being held in a setting that is conducive to learning and has not been selected because of its leisure or recreational facilities.

***Is there a list of approved venues for company-sponsored training and education?***

No.

Community perceptions are relevant because one of the aims of the Code is to enhance the industry's reputation.

***Can we conduct company-sponsored training and education at a resort or top category restaurant if all other venues are booked out?***

It is not acceptable to book a venue that is not consistent with the Code on the basis that all other venues were booked out. Companies need to plan and book ahead early enough to avoid placing themselves in such a situation.

## **Third Party Educational Conferences**

### **Clause 5.2: Third Party Educational Conferences**

The flowchart summarises the MTANZ Code of Practice's provisions on sponsoring a Third Party Educational Conference.

***I am a conference organiser and I am organising a third party conference for healthcare professionals at a resort location overseas. Can medical technology companies sponsor this event?***

The Code does not prohibit companies from sponsoring third party educational conferences held at resort or overseas locations. However, companies can only sponsor third party conferences that are primarily dedicated to promoting objective medical, scientific and educational activities and discourse. Companies should satisfy themselves that the education program is the dominant focus of the conference, both in time committed to it and content, in order to sponsor an event.

The Code also encourages companies to consider the image that may be projected to the public when deciding whether to support a conference. This would include whether the public would consider that a conference is going to be for the genuine purpose of promoting scientific knowledge, medical advancement or the delivery of effective healthcare. Companies are permitted to decline to sponsor a conference if they consider that, on balance, the event is or will be perceived as a leisure event rather than a genuine educational event.



***Can we have a barista making coffee or give away cupcakes at our trade display at a third party educational conference?***

The Code provides that a company may provide hospitality at a third party educational conference either by providing:

- funding to the conference sponsor to support hospitality at such a conference (subject to the company and the conference sponsor entering into a written agreement)
- hospitality at a third party educational conference, provided the hospitality is available to all attendees who are healthcare professionals, or a specialty sub-group of healthcare professionals.

As long as any hospitality provided at a trade display meets the second bullet point's requirements, as well as the general hospitality provisions of clause, companies can offer it from their trade display.

## **Consultancy**

### **Clause 5.6: Arrangements with Healthcare Professionals acting as Consultants**

***We have engaged a healthcare professional (HCP) as a consultant to travel overseas to facilitate a two day company training session. Can the HCP arrive the night before the training session and leave the day after the training session or would this be a prohibited side trip?***

If the travel arrangement will give the consultant periods of personal or private benefit during the trip, then the arrangement is not permitted under the Code.

If the travel arrangement is linked to the proper performance of the consultancy services, such as allowing the consultant reasonable rest before performing the consultancy services, then it is within the Code. Companies need to assess what is reasonable in the circumstances of each consulting arrangement.

***Can we engage a healthcare professional as a consultant to speak at an international third party conference and pay their associated expenses?***

Companies cannot make direct payments to HCPs to speak at third party educational conferences. They are only allowed to provide sponsorship to a conference organiser, which can then be used to provide support for a speaker as part of the expenses for the conference.

Companies are allowed to engage HCPs as consultants to speak at or facilitate a company sponsored symposium which is held as part of a third party educational conference. Such a consultancy agreement should only be entered into where there is a genuine need for the HCP to speak at or facilitate the symposium. It would be inconsistent with the Code to engage a HCP as a consultant in order to circumvent the Code's restrictions on direct individual sponsorship of HCPs to third party conferences.

***We have engaged a healthcare professional from Auckland as a consultant to speak at a company training event in Christchurch. The HCP has asked us to facilitate a 'side trip' after the consultancy so she can have a weekend in Queenstown before flying back to Wellington. Is this permitted?***

No. The Code allows for the provision of reasonable and actual expenses incurred by a consultant in carrying out the engagement. It does not permit companies to facilitate a side trip for any other purpose, even if the side trip is at no further cost to the company.

## **Hospitality**

### **Clause 5.7: Hospitality**

The flowchart summarises the MTANZ Code of Practice's provisions on providing Hospitality during interactions with Healthcare Professionals.

***Can a Company representative provide hospitality to hospital staff if they are visiting to demonstrate a new product?***

Yes. If a company employee visits a hospital to conduct a product demonstration, modest hospitality could be provided if it was incidental to the educational presentation.



***Clause 5.7 requires hospitality to be modest in value. Is there a specific dollar limit on modest?***

No. Companies need to exercise their own judgment on this issue on a case-by-case basis, bearing in mind that top category restaurants generally wouldn't meet this requirement.

***We have bought a table at a charity fundraiser to raise funds for medical supplies for Pacific communities. Can we invite healthcare professionals to be guests at our table?***

Yes, but only if they pay for their ticket. Under the Code, companies can only offer hospitality to healthcare professionals in limited circumstances which are:

- In the context of a third party educational conference;
- Where there is an educational element or a medical technology demonstration; or
- As an occasional courtesy in conjunction with business interactions involving the presentation of scientific, educational or commercial information.

You can invite healthcare professionals to sit at your company's table at a charity fundraiser but the healthcare professional would need to pay for themselves and any guests they'd like to bring.

## **Gifts**

### **Clause 5.8: Gifts to Healthcare Professionals**

The flowchart summarises the Medical Technology Industry Code of Practice's provisions on providing gifts to Healthcare Professionals.

***Can we give out a branded mouse pad or wall planner if it has useful information on it, such as conference dates?***

No. Companies are not permitted to give healthcare professionals non-educational branded promotional items (this restriction does not apply in relation to products marketed only to consumers). In terms of a wall planner or mouse pad, the items themselves are not educational. The wall planner is primarily used for recording appointments while the mouse pad helps when using a computer. Including conference dates may be of some interest to the healthcare professional but doesn't make the items themselves an educational item. In addition, because items such as these will be displayed fairly prominently if used by the healthcare professional, they could be argued to be promotional items if they are branded in any way.

***Can we give HCPs a non-branded USB with educational files on it?***

If the USB was preloaded with files which served a genuine educational function for the HCP then it would be consistent with clause 5.8 of the Code as long as it was less than \$100 in value.

The USB cannot be branded as the USB itself is not an educational item and non-educational branded promotional items are not permitted under the Code.

***Can we give out unbranded items of minimal value like pens and notepads?***

Companies can only give healthcare professionals occasional gifts which either benefit patients or serve a genuine educational function for the healthcare professional. There is also a \$100 limit except in the case of medical textbooks and anatomical models. Items such as the following do not meet the Code's requirements and are not permitted to be given as gifts:

- Mugs
- Stationery such as pens or notepads
- Alcohol, chocolates or flowers.

***If we sponsor a third party conference, the organisers will arrange lanyards and conference backpacks with our company branding on them. Is this allowed?***

No. Companies aren't allowed to give healthcare professionals non-educational branded promotional items, even if they are of minimal value and related to the HCPs work or for the benefit of patients. The Code makes no exception for items given out at third party educational conferences.



***Does the prohibition on non-educational branded promotional items apply to company branding or just product branding?***

The Code's prohibition on non-educational branded promotional items includes both company branding and product branding.

## **Competitions**

### **Clause 5.9: Competitions for Healthcare Professionals**

***We are exhibiting at an upcoming conference. The conference organisers want to run a competition involving exhibitors who pay an additional amount. Delegates who visit all the stands of participating exhibitors go into the draw to win a tablet computer. Is this permitted under the Code?***

When a company conducts a competition for healthcare professionals, the requirements of clause 5.9 apply. The Code does not have specific provisions about companies participating in competitions organised by third parties, such as conference organisers. As such, the Code does not prohibit companies from participating in competitions of this type.

***Can we run a competition where the winning participant chooses a charity that our company then makes a charitable donation to?***

Yes. The Code's requirements for competition prizes are that they must be directly relevant to the practice of medicine or field of other specialist healthcare and of minimal monetary value (less than \$100) or of an educational nature. This is aimed at preventing healthcare professionals from receiving expensive, non-educational prizes which they would personally benefit from. With a charity donation, the healthcare professional does not receive any tangible item and the only intangible they receive is deciding which charity will receive your company's donation. As long as there was no other personal benefit (such as the donation being made in the healthcare professional's name so that they received a tax deduction) and as long as your company wasn't making the donation as an inducement (which clause 7.9(f) prohibits), it would not be inconsistent with the general principles underlying the Code.

***Can we run a competition where the prize is a \$500 education grant?***

No. The Code prohibits companies from giving educational grants directly to individual HCPs or practitioners in training. Companies can only make grants to institutions and would also need to check that the institution meets the other requirements in clause 5.10.3 before offering any grant. Although the Code allows competition prizes to be "items of an educational nature" this refers to prizes where the item itself is educational. It would also not be consistent with the Code to give an educational grant to individual HCPs as a prize given that this is not allowed under other sections of the Code.

## **Fellowships**

### **Clause 5.10.5: Fellowships**

***Our company has received a fellowship grant request from a hospital. The hospital has indicated that the requested amount is for the salary of the fellow as well as administration costs for the time and fees spent applying for the fellow's visa. Can a Company cover all these costs as part of a fellowship grant?***

Clause 5.10.5 allows companies to grant funds to certain bodies to provide a fellowship for the specialty education of a Healthcare Professional or a Practitioner in Training. Funds can be used for the fellow's salary and reasonable administration fees associated with establishing the fellowship, such as applying for any required visa.

***Do the general requirements for educational grants at clause 5.10.3 apply to fellowship grants given by companies?***

Yes. Fellowship grants given by companies under clause 5.10.5 to support specialty education are a type of educational grant. They must comply with the general requirements for all educational grants that are outlined at clause 5.10.3