





***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.: 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 5.9 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 5.10: 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 5.10 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 5.11: 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 5.11 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 15.12.4(b) 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 15.12.3(c) 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 15.12.5: 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 15.12.5 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 15.12.3 apply to fellowship grants given by companies?***

Yes. Fellowship grants given by companies under clause 15.12.5 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 15.12.3