



Guidance Document

Q&A on the Eucomed Guidelines on Interactions with Healthcare Professionals

22 October 2009

Q1 Under the guidelines, is written notification to the Health Care Professional's employer (or other locally-designated body) required for each interaction with a member? For example, is such notification required each time a member pays for a reasonably priced meal or gives a Health Care Professional a gift which are otherwise in line with the requirements of the guidelines?

A1 Written notification to the Health Care Professional's employer (or other locally-designated body) is required whenever a member engages a Health Care Professional as a consultant or whenever a member makes a financial contribution to the Health Care Professional's medical training. Incidental interactions arising in the normal course of business such as meals associated with educational or business meetings or the receipt of modest gifts related to the Health Care Professional's practice, do not require notification.

Q2 Under the guidelines, what is meant by the term "appropriate location"?

A2 An "appropriate location" is a recognised institution, conference or business centre which is centrally located, providing ease of access when regard is given to the place of origin of the invited participants. The location selected should not become the main attraction of the event and members must consider at all times the image that may be projected to the public by their choice of location. Appropriateness of location applies irrespective of who organises the event.

Q3 What criteria should a member apply when considering the country location of product training or education?

A3 If the participants are primarily of one country, the venue should be in the specific country involved. If the participants are from multiple countries in Europe, then a European country affording ease of access for participants should be chosen. It is expected that the country selected is the residence of at least some of the participants of the meeting.

Q4 Can a member use a meeting venue outside Europe?

A4 Yes, provided the participants are from multiple countries outside Europe. If the participants are primarily from within Europe, the venue should be in Europe. It is expected that the country selected (and the state, if the location is in the United States) is the residence of at least some of the participants of the meeting.

Q5 Are hotels suitable venues for member-sponsored meetings with Health Care Professionals?

A5 Yes, hotels are suitable venues for member-sponsored meetings with Health Care Professionals. The hotel selected should not become the main attraction of the event and members must consider at all times the image that may be conveyed to the public by their choice of hotel. The hotel should not normally be a top category or luxury hotel in the country in which it is located nor be renowned for its entertainment facilities. An important factor in selecting a hotel is its suitability for business meetings, including the availability of conference facilities.

Q6 Can a member use a hotel that offers leisure facilities such as golf, or water sports for member-sponsored training and education?

A6 Many business hotels and conference centres provide leisure facilities and while it would not be reasonable to exclude these venues if otherwise appropriate, members must exercise caution. Members should arrange the meeting agenda such that Health Care Professionals attending the meeting would not be free to make use of the leisure and sporting facilities during any significant part of a normal working day. Further, where hotels require additional payment to enable guests to use the leisure and sporting facilities, members may not make such payments on behalf of the Health Care Professionals.

Q7 Are cruise ships or golf clubs appropriate venues for member-sponsored training and education?

A7 No. Cruise ships, golf clubs or health spas and venues renowned for their entertainment facilities are not appropriate venues and should not be used.

Q8 Under the guidelines, what do the terms 'reasonable' and 'hospitality mean?

A8 The guidelines seek to find a balance between the courteous and professional treatment of Health Care Professionals by Eucomed members, with the desire to avoid even the appearance that hospitality may be used by members as a means to induce Health Care Professionals to purchase, prescribe or recommend company products. Accordingly, members must assess what is 'reasonable' in any given situation and regional variations will apply. As a general guideline, 'reasonable' should be interpreted as the appropriate standard for the given location and must comply with the local laws, regulations and professional codes of conduct. If the meeting venue is a hotel which complies with the

requirements of the guidelines, it would be acceptable for members to offer participants meals and accommodation at the same hotel.

The term 'hospitality' includes meals and accommodation. It is important that members differentiate between 'hospitality' which is permitted and 'entertainment' which is not. 'Entertainment' includes, but is not limited to, dancing or arrangements where live music is the main attraction, sight-seeing trips, theatre excursions, sporting events and other leisure arrangements.

Q9 Under the guidelines, what standard of air travel may a member provide a Health Care Professional attending member-sponsored training?

A9 Members may provide only economy or standard class air travel to Health Care Professionals unless the flight time is of a duration of greater than 5 hours; in which case, it is appropriate to consider premium economy or business class provided this is permitted under the national and local laws, regulations and professional codes of conduct of the country where the Health Care Professional is licensed to practise.

Q10 What does the term "facilitate" mean where used in connection with the guest or spouse expenses?

A10 The term "facilitate" refers to the prior arrangement, organisation or booking of meals, travel or accommodation by a member on behalf of the spouse/guest of a Health Care Professional participant. Such organisation or booking is not permitted unless the individual qualifies as a participant in their own right. If Health Care Professionals attending product training wish to be accompanied by a spouse/guest who does not have a professional interest in the information being shared, the Health Care Professional must take sole responsibility for the payment and organisation of the spouse/guest's expenses.

Q11 In the event that a Health Care Professional is accompanied by a spouse/guest at member-sponsored product training, may the spouse/guest be admitted to any member-related activity?

A11 It would not be appropriate for the spouse/guest of a Health Care Professional to be invited to attend any of the member-related activities, including associated meals even when the Health Care Professional has paid for the spouse/guest expenses. Any uninvited appearance by a spouse/guest should be strongly discouraged.

Q12 In connection with providing financial support to cover the cost of conference attendance by individual Health Care Professionals, what are deemed to be reasonable travel, meals and accommodation?

A12 Members must assess what is reasonable in any given location and regional and country variations will apply. However, as with member-sponsored training, the hospitality provided by members at third party educational events should not be of such a level as to become the main attraction of the event. Accordingly, hotel accommodation should not normally be provided at top category or luxury hotels, air travel should be economy or standard class unless the duration of the flight extends beyond 5 hours (in which case premium economy or business class may be considered) and meals should be of a standard that Health Care Professionals would routinely expect if they were paying for them out of their own pockets. A meal at the conference hotel with wine would normally be considered acceptable.

Q13 Is it appropriate for members to cover the full registration fee of third-party conferences where such fee covers the cost of a conference dinner and/or social or cultural activities?

A13 Members must not pay for the expenses which relate to the purely social or cultural aspects of the conference. Modest and incidental gatherings such as the welcome cocktail are appropriate and members may cover these expenses. Where the registration fee includes an element of entertainment members must request that these elements are separated in the registration fee and subsequently not pay for this element. If the conference organiser is unable to separate the entertainment costs from the registration fee, members should assess the image that may be projected to the public and reconsider supporting the event. For the avoidance of doubt, the conference dinner may be supported if it is expected that all delegates to the conference would normally attend and provided the dinner is otherwise in line with the requirements of the guidelines.

Q14 Are members permitted to invite Health Care Professionals to educational conferences, offering to cover their reasonable expenses or are members only permitted to support Health Care Professional attendance at conferences in response to unsolicited requests from Health Care Professionals?

A14 Members are permitted to invite Health Care Professionals to attend educational conferences provided the selection is based upon the training and educational requirements of the individual Health Care Professional and is in no way tied to the Health Care Professional's past or potential future use of the member's products or services. Members have to ensure that they comply with all national and local laws, regulations or professional codes of conduct with regards to transparency. In countries where specific provision is not made, Members must maintain appropriate transparency by giving prior

written notification to the hospital administration, the HCP superior (or other designated competent authority) expressly offering the possibility to comment and/or oppose the invitation or to designate an alternative HCP recipient.

Q15 How does the Code apply where a member organises or sponsors an international meeting with Health Care Professionals attending from various European countries?

A15 When organising or sponsoring international events, members must comply with the regulations on hospitality applicable to each Health Care Professional in their respective countries and with the regulations in the country where the event takes place. Each Health Care Professional remains subject to the regulations of his/her own country, irrespective of where the event takes place. In the case of conflict, the member is recommended to apply the stricter rule.

Q16 Is it acceptable to offer a cash advance by way of a cheque or bank transfer payable to a Health Care Professional for a specific amount to cover all or part of the Health Care Professionals' travel or accommodation expenses for attendance at a conference?

A16 It is not acceptable to make an advance payment to a Health Care Professional to cover prospective expenses. Payments should generally be made to the supplier/vendor or intermediary agency. Alternatively members may reimburse individual Health Care Professional expenses retrospectively against original invoices or receipts.

Q17 May member companies offer to cover the travel and accommodation expenses of Health Care Professionals for periods that extend beyond the duration of the congress or other training programme attended?

A17 Generally, travel and accommodation support given by member companies to Health Care Professionals should be strictly tailored to the duration of the congress or educational event. However, where the travel expenses incurred are significantly reduced by the Health Care Professional travelling at alternate times, the travel arrangements may be extended. Any accommodation expenses relating to the extended stay must be met by the Health Care Professional.

Q18 May member companies organise the travel and accommodation arrangements of the spouse or other guest of a Health Care Professional attending a third-party congress if the Health Care Professional pays for the spouse or guest?

A18 No, unless that person qualifies as a proper delegate or participant at the meeting in their own right, it would not be appropriate for a member to organise the travel and/ or accommodation

arrangements of the spouse or guest of a Health Care Professional, irrespective of who pays. Such actions are open to misinterpretation.

Q19 Is it permissible under the Code for member companies to sponsor the attendance of individual Health Care Professionals on courses of further education?

A19 No, members may not sponsor individual Health Care Professionals to attend courses of further education. Members may make educational grants available and provide such grants to the training institution but must have no role in the selection of the individual who will receive the grant.

Q20 Is it acceptable for members to subsidise or pay for the attendance of Health Care Professionals at events organised by medical device industry associations or by groups of companies (in both cases with or without the involvement of third parties)?

A20 Yes this is acceptable provided the Health Care Professional is likely to obtain an objective benefit from such attendance and there is no overt commercial promotion. For example, meetings arranged for the purpose of training Health Care Professionals on the guidelines or gaining a better understanding of the industry in general, would be acceptable.

Q21 Is it appropriate for members to invite Health Care Professionals on company plant or factory tours where the Health Care Professionals reside outside the country of location of the plant or factory?

A21 Yes it is appropriate for members to invite Health Care Professionals to plant or factory tours in countries outside their country of residence if there is a legitimate business purpose and the tour complies with the guidelines in all respects. Accordingly, members should ensure that appropriate documentation is put in place, hotel accommodation is not normally provided at top category or luxury hotels, air travel is economy or standard class unless the duration of the flight extends beyond 5 hours (in which case premium economy or business class may be considered) and meals are of a standard that Health Care Professionals would routinely expect if they were paying for them out of their own pocket.

Q22 What general criteria need to be fulfilled for arrangements with Health Care Professionals that are engaged to provide genuine consultancy services?

A22 The criteria that should be adopted are as follows:

- *a legitimate business need is identified in advance;*

- *the criteria for the selection of Health Care Professionals are related to the identified need;*
- *a written agreement specifying the services to be provided is in place before the service is rendered;*
- *compensation for the service rendered is reasonable and according to fair market value;*
- *members document the work products generated by the Health Care Professionals; and the arrangement is entered into without intention of using it as a means to induce the recommendation, purchase, prescription, supply or sale of medical products or services.*

Q23 Under the guidelines, is it compulsory that a Health Care Professional engaged as a consultant by a member obtains a written permission from the main health care institution where the Health Care Professional conducts his or her work to render services as a consultant for the member?

A23 Under the guidelines, written permission is not required. However, interaction between industry and Health Care Professionals must be transparent and comply with national and local laws, regulations and professional codes of conduct. In countries where specific provision is not made, members shall nevertheless maintain appropriate transparency by giving prior written notification to the hospital administration or the Health Care Professional's superior (or other locally-designated body), fully disclosing the purpose and scope of the engagement.

Q24 According to the guidelines, would it be permissible for members to organise entertainment or other social or leisure activities in association with meetings with Health Care Professionals who are engaged as consultants by the member?

A24 No. Members should not provide or organise entertainment for Health Care Professionals who are engaged as consultants by the member.

Q25 Is it appropriate for members to cover the cost of meals, travel or other hospitality expenses of the spouse or guest accompanying Health Care Professionals at member-sponsored consultant meetings.

A25 No, it is not appropriate for members to pay for the meals, travel or accommodation of persons accompanying Health Care Professional consultants at member-sponsored consultant meetings. Furthermore, members should not organise the travel or accommodation of such guests.

Q26 When a member contracts with a group of Health Care Professionals for the development of intellectual property, is it appropriate for each Health Care Professional

pertaining to that group to receive financial compensation in respect of the co-developed medical devices prescribed or used by the other co-developer Health Care Professionals?

A26 No. It is advisable that, the Health Care Professionals who co-develop one or more medical devices under an appropriate contract with a member do not receive financial compensation in respect of the co-developed medical devices used or prescribed by the other co-developer Health Care Professionals.

Q27 Please provide some examples of items of modest value that are “related to the Health Care Professional’s practice or for the benefit of patients”.

A27 Mugs, stationery items, calendars, diaries, computer accessories for business use and clinical items such as wipes, nail brushes, surgical gloves and tourniquets are examples of modest value items that would be appropriate for use as gifts for Health Care Professionals provided their value falls within the maximum value prescribed under national and local laws, regulations and industry and professional codes of conduct. Items which are primarily for use in the home or car are not appropriate as they are not related to the Health Care Professional’s practice nor are they for the benefit of patients.

Q28 Are prize draws and competitions appropriate forms of promoting medical devices?

A28 Prize draws and other competitions may be appropriate if the prize awarded complies with the guidelines on gifts and is in accordance with national and local laws, regulations and industry and professional codes of conduct.

Q29 What are regarded as cash equivalents?

A29 Items that have a specified cash value such as store vouchers, book tokens, music tokens or vouchers offering a discount or free gift are regarded as cash equivalents.

Q30 May a member provide a small gift to a Health Care Professional upon significant life events such as a marriage, birth, birthday or death?

A30 The guidelines restrict the types of gifts that may be given to a Health Care Professional and it would not be appropriate to give gifts to mark significant life events such as a marriage, birth or birthday. However, in the case of death, it is for each member to determine the appropriateness of making a tasteful gift as a mark of respect.

Q31 May a member give gifts to staff of a Health Care Professional who are not themselves Health Care Professionals?

A31 Gifts given to the staff of a Health Care Professional should be treated as though they were given to the Health Care Professional and accordingly, must comply with the provisions of the guidelines in all respects.

Q32 Can a member make a charitable donation to a non-profit organisation in the name of a Health Care Professional?

A32 No. All contributions made with a member's funds must represent the member as the provider of the donation.

Q33 Can a member buy a stand or booth at a conference organised by a charity?

A33 Yes, but this activity would not be considered to be a charitable donation. It would be considered a legitimate commercial transaction as a normal part of marketing activity.

Q34 Under the guidelines, may a member make a charitable donation such as the purchase of a table of dinner invitations at a fundraising dinner?

A34 Yes, charitable donations made by members may take the form of dinner invitations for a fundraising dinner or participating in other recreational events such as a fundraising golf tournament, if arranged by a charity or other eligible entity. However, the member should not invite Health Care Professionals to attend the event at the member's expense. The member may use some or all of its ticket allotment for its own employees and return any unused portion to the sponsoring organisation for use as the sponsoring organisation sees fit.

Q35 Can a member pay a research grant to a Health Care Professional for a clinical study where the member is named as the sponsor of the study?

A35 No. Clinical investigators participating in a member-sponsored study are regarded as providing a consultancy service and arrangements should follow Section V Arrangements with Consultants.

Q36 Do the guidelines apply to requests for educational support made by medical institutions and group purchasing bodies in the context of public tender offerings.

A36 No. Such requests and the subsequent financial support made are not considered to be “educational grants” for the purpose of these guidelines. Such arrangements are commercial in nature and not philanthropic and should be documented in a written commercial agreement in accordance with normal business practice.