



# MITA

MEDICAL IMAGING  
& TECHNOLOGY ALLIANCE

A DIVISION OF **NEMA**

1300 North 17th Street  
Suite 1752  
Arlington, Virginia 22209  
Tel: 703.841.3200  
Fax: 703.841.3392  
[www.medicalimaging.org](http://www.medicalimaging.org)

September 28, 2007

Dear Health Care Professional:

As a healthcare provider, you may have noted news reports in recent years focusing on improper relationships between healthcare providers and pharmaceutical and medical technology suppliers. In 2006, the *New York Times* published a series of front page articles called "Side Effects" that examined how monetary considerations can influence the ways doctors conduct business and practice medicine. Importantly, this increased public scrutiny follows significant Federal government prosecutions of healthcare providers and vendors under the Anti-kickback and related anti-fraud provisions of the Medicare Act. According to a recent report of the Office of Inspector General (HHS OIG), from October 1, 2006 – March 31, 2007, the government recovered almost \$60,000,000 in settlements and fines in healthcare fraud prosecutions related to payments made by pharmaceutical and medical device manufacturers to healthcare providers allegedly to order to induce and influence sales of their products or services. And these fines were not assessed against the vendors alone, but health care institutions and individual physicians paid a significant portion of the criminal and civil penalties. In one case, a physician was sentenced to jail for 46 months.

What is not widely understood in the broader healthcare community is that practices, which can be common in other industries, are prohibited when the customers are healthcare providers; for example:

- Sales representatives taking customers for a round of golf or to a professional athletic event
- Requests for vendor funded research or charitable contributions as a condition of sale
- Taking customers out for an expensive meal, or paying for the cost of a spouse's meal, even if modest in cost

The government views these types of business courtesies as improper attempts to influence a sale.

As government prosecutions and policy announcements from the Department of Health and Human Services became pronounced in 2003-2004, the National Electrical Manufacturers Association's Medical Imaging and Technology Alliance (MITA) encouraged its member companies to be sure their internal compliance programs were robust enough to avoid the pitfalls faced by those firms that were being prosecuted in the pharmaceutical and medical device industry. As part of this initiative, in 2004 we developed the NEMA **Code of Ethics for Interactions with Health Care Providers** to provide guidance to vendors on ethical practices in the healthcare industry.

Recent civil settlements with the Office of Inspector General bear out the prudent guidance contained in the NEMA **Code of Ethics**. In 2006 and 2007, there were three legal cases, where vendors and physicians paid nearly \$13,000,000 in settlements, and the provision of entertainment tickets, gift certificates, rounds of golf,



# MITA

MEDICAL IMAGING  
& TECHNOLOGY ALLIANCE

A DIVISION OF **NEMA**

1300 North 17th Street  
Suite 1752  
Arlington, Virginia 22209  
Tel: 703.841.3200  
Fax: 703.841.3392  
www.medicalimaging.org

fishing trips, meals, office equipment, NFL game tickets and grants were part of the alleged scheme.

The **Code of Ethics** addresses several areas pharmaceutical and medical technology suppliers and health care providers interact where it could be alleged that the interaction was intended to influence the sale of a medical product:

- product training and education for customers;
- sponsorship of third party educational conferences;
- sales and promotional meetings;
- consulting arrangements;
- gifts;
- provision of reimbursement and other economic information;
- charitable donations;
- research grants

MITA based its code on published government guidance and codes developed by other organizations (such as AdvaMed and PhRMA). MITA also conferred with the Federal Office of Inspector General of the Department of Health and Human Services, who enforces these laws, to be sure we had a clear understanding of federal policy. Since then, MITA has been acting proactively to raise awareness of the issues and to provide training to its members and healthcare providers. As awareness of these laws has increased, you may have noticed differences in your interactions with medical device vendors.

We are writing to you at this time as part of our continuing effort to raise awareness through the entire healthcare community of the important Anti-kickback laws. We encourage you to go to MITA's web site at <http://www.nema.org/prod/med/> where you can review the NEMA **Code of Ethics for Interactions with Health Care Providers**. We also encourage you to attend upcoming informational sessions about the Anti-kickback laws in the medical device context. On Monday, October 29, 2007, MITA and ASTRO will be delivering a lunch and learn program about the Code of Ethics at the ASTRO Translational Research in Radiation Oncology and Radiology Symposium in Los Angeles, California. On Wednesday November 28, 2007 at 4:30 pm, MITA, together with American College of Radiology, will also be presenting a CME program at the Radiological Society of North America's (RSNA) meeting in Chicago at McCormick Place.

MITA stands ready to be an informational resource to you and other healthcare providers on this important issue and we strongly encourage you to learn the rules. Doctors, hospitals, clinics and others who provide healthcare should not be caught unawares when it comes to conduct the government considers criminal. Thank you and we hope to see you at our upcoming ASTRO or RSNA programs.

Sincerely,

Andrew Whitman  
Vice-President

Clark Silcox  
General Counsel