

## NYU LANGONE MEDICAL CENTER

### POLICY ON CONFLICTS OF INTEREST IN BUSINESS AFFAIRS

Issue Date: April 1, 2009

---

#### Contents:

- I. Applicability
  - II. General Policy
  - III. Disclosure
  - IV. Review and Evaluation
  - V. Recusal
  - VI. Definitions
  - VII. Examples of Conflicts of Interest
  - VIII. Enforcement
  - IX. Questions
  - X. Relationship to Other Policies
- 

#### I. Applicability

This Policy applies to all members of the Medical Center community -- employees, faculty, staff, residents, trainees, students, volunteers, and officers (each, an "NYULMC Member") -- except trustees, who are governed by the *Policy on Trustee Conflicts of Interest*. All capitalized terms shall have the meaning set forth in Section VI below.

#### II. General Policy

A. NYULMC Members have a primary obligation to serve the purposes to which the Medical Center is dedicated. As part of this obligation, each NYULMC Member has a duty to conduct his or her Medical Center duties and the affairs of the Medical Center in a manner that promotes the best interests of the organization.

B. A "Conflict of Interest" exists when an NYULMC Member's personal interests or activities within or outside of the Medical Center influence or appear to influence an NYULMC Member's ability to promote objectively the best interests of the Medical Center. A Conflict of Interest may exist whenever an NYULMC Member participates, directly or indirectly, in the selection, award or administration of any business transaction which involves the Medical Center and the NYULMC Member, a member of his or her Immediate Family, or an entity in which he or she has a Financial Interest. Employment agreements between the Medical Center and the NYULMC Member are not business transactions giving rise to Conflicts of Interest under this Policy. Examples of Conflicts of Interest are set forth in Section VII below.

C. The Medical Center does not engage in any matter giving rise to a potential Conflict of Interest involving an NYULMC Member unless the matter has been fully disclosed and evaluated in accordance with this Policy and a plan for managing or eliminating the Conflict of Interest has been adopted.

### III. Disclosure

A. Annual Disclosures. The following NYULMC Members must submit to the Office of Compliance annual disclosure forms upon appointment and annually thereafter:

- (i) Chairs, Vice-Chairs, Department Administrators, and all employees and officers at the level of Vice-President, Assistant Dean, Director or above;
- (ii) paid faculty members, whether full time or part time;
- (iii) investigators participating in the Medical Center's research or sponsored programs;
- (iv) persons engaged in purchasing decisions on behalf of the Medical Center; and
- (v) members of any Medical Center committees with supervision or oversight responsibilities over patient care, purchasing, research or education at the Medical Center (e.g., the Pharmacy and Therapeutic Committee (PNT) and the Institutional Review Board (IRB)).

The annual disclosure form will be provided to the NYULMC Member by the Office of Compliance and must be completed and returned within thirty (30) days of receipt. In addition, the Office of Compliance may request that any NYULMC Member complete an annual disclosure form at any time.

In the annual disclosure form, an NYULMC Member must, among other matters, certify compliance with the Medical Center's *Policies on Conflicts of Interest, Commitment and Consulting*, including this Policy, and disclose all entities in which he or she has a Financial Interest which he or she reasonably believes does or may do business with the Medical Center or competes or may compete with the Medical Center. Disclosures of Financial Interests must be made in specific amounts. In addition, as provided in the Medical Center's *Policy on Faculty Conflicts of Commitment*, faculty members must disclose all outside activities involving his or her professional competence. NYULMC Members may also be required to disclose additional personal interests, activities and relationships as mandated by regulatory requirements (e.g., IRS Form 990).

B. Specific Disclosures. All NYULMC Members must disclose to the Office of Compliance any specific situation that gives rise to a potential Conflict of Interest.

C. Confidentiality. Disclosures will be kept confidential and divulged by the Medical Center for review under the *Policies on Conflicts of Interest, Commitment and Consulting* on a need-to-know basis only.

### IV. Review and Evaluation

A. Office of Compliance Initial Review. The Office of Compliance is responsible for reviewing disclosures and determining whether a potential Conflict of Interest exists under the circumstances. In cases involving an NYULMC Member other than a Corporate Officer where the Office of Compliance believes that a Conflict of Interest exists, the Office of Compliance will submit the matter to the Business Conflict of Interest Committee (BCOIC) for review in

accordance with this Policy. In cases involving a Corporate Officer where the Office of Compliance believes that a Conflict of Interest exists, the Office of Compliance will submit the matter to the Audit and Compliance Committee.

**B. Non-Corporate Officer Conflicts/BCOIC Review.** The BCOIC is responsible for reviewing and evaluating each potential Conflict of Interest involving an NYULMC Member, other than a Corporate Officer, submitted to it by the Office of Compliance. As a matter of policy, if the BCOIC finds that a Conflict of Interest exists, the Medical Center will not approve the matter unless the BCOIC determines, after reviewing all material facts, that extraordinary circumstances merit an exception and the BCOIC adopts a plan for managing and monitoring the Conflict of Interest which is fully consistent with the best interests of the Medical Center. The BCOIC must report to the Audit and Compliance Committee all findings it makes arising from its review and evaluation responsibilities under this Policy.

**C. Corporate Officer Conflicts/Audit and Compliance Committee Review.** The Audit and Compliance Committee is responsible for reviewing and evaluating each potential Conflict of Interest involving a Corporate Officer submitted to it by the Office of Compliance. As a matter of policy, if the Audit and Compliance Committee finds that a Conflict of Interest exists, the Medical Center will not approve the matter, unless the Audit and Compliance Committee determines, after reviewing all material facts, that extraordinary circumstances merit an exception and the Audit and Compliance Committee adopts a plan for managing and monitoring the Conflict of Interest which is fully consistent with the best interests of the Medical Center. The Audit and Compliance Committee must report to the Board of Trustees all findings it makes arising from its review and evaluation responsibilities under this Policy.

#### **V. Recusal**

No NYULMC Member shall participate, directly or indirectly, in the selection, award or administration of any matter that gives rise to a potential Conflict of Interest. In such event, the NYULMC Member must recuse himself or herself from the matter and notify the Office of Compliance as provided under Section III (B) above.

#### **VI. Definitions**

A. "Conflict of Interest" shall have the meaning ascribed to it in Section II (B) above.

B. "Corporate Officer" means the senior leadership of the Medical Center as defined from time to time by the Dean and CEO of the Medical Center.

C. A "Financial Interest" is held in an outside entity by an NYULMC Member when he or she or a member of his or her Immediate Family has a personal financial interest in the outside entity. Examples of Financial Interests are an Outside Position, Ownership Interests, Consulting Compensation or Royalty Income, where:

(i) "Outside Position" means a position or appointment to serve, in either a personal or representative capacity, as a director, trustee, partner, senior executive, officer, or employee, whether paid or unpaid, at the outside entity;

(ii) "Ownership Interests" are equity interests held, either directly or indirectly, including stock and stock options (or entitlement to the same); of any amount in either a publicly-traded or non-publicly-traded entity. (Exception: Mutual Funds-

Interests of any amount in publicly-traded, diversified mutual funds are not Ownership Interests.);

(iii) **“Consulting Compensation”** means consulting fees, honoraria, lecture fees, other emoluments, stock, stock options, royalties or “in kind” compensation directly or indirectly received from an entity (or entitlement to the same), whether for consulting, lecturing, or service on a scientific advisory board, data safety monitoring board, steering committee for a clinical trial, executive committee for a clinical trial, or other committee for an outside entity, or for any other purpose, that have been received in the past calendar year or are expected to be received in the next calendar year; and

(iv) **“Royalty Income”** means royalty income (i.e., payments linked to product sales), or the written contractual right to receive future royalties, directly or indirectly under an issued or pending patent, license or copyright, that has been received in the past calendar year or is expected to be received in the next calendar year. For the purpose of this Policy, Royalty Income includes all income received by an NYULMC Member from NYU in accordance with the *NYU Statement of Policy on Intellectual Property*.

*(Exception: Salary from the Medical Center and cost-related payments for services or reimbursements from the Medical Center are not Financial Interests. Payments to the Medical Center, or via the Medical Center to the NYULMC Member, which are directly related to the reasonable costs incurred in the conduct of a research project or sponsored program or to the payment of indirect costs and are specified in a grant, agreement or contract between the Medical Center and a research sponsor are not Financial Interests.)*

D. **“Immediate Family”** means the person’s spouse, domestic partner, children, parents, siblings, equivalents by marriage, or other individuals residing in the person’s household.

E. An **“NYULMC Member”** means every member of the Medical Center community, including employees, faculty, staff, residents, trainees, students, volunteers and officers, except trustees.

## VII. Examples of Conflicts of Interest

The following are situations that give rise to a Conflict of Interest and require disclosure to the Office of Compliance in accordance with this Policy. This list is by no means all-inclusive. In case of uncertainty as to whether or not a Conflict of Interest exists, an NYULMC Member should disclose the matter to the Office of Compliance. For example, some potential Conflicts of Interest occur when:

A. An NYULMC Member or a member of his or her Immediate Family has a Financial Interest in an entity or vendor that the Medical Center is contemplating doing business with (e.g., the Medical Center is contemplating purchasing, leasing or selling of goods, services, or real estate, or making or receiving a loan to or from such individual or entity, or is contemplating accepting a grant from such individual or entity for sponsored research).

B. An NYULMC Member or a member of his or her Immediate Family proposes that the Medical Center use or purchase goods in which the NYULMC Member has a proprietary interest (e.g., an NYULMC Member advocates the use of a device designed by the NYULMC Member).

C. An NYULMC Member, a member of his or her Immediate Family, or any entity in which he or she has a Financial Interest either engages in competition with a service provided by the Medical Center (e.g., by working for an organization which competes directly with the Medical Center, except that a member of the Medical Center's medical staff who is also on the medical staff of another hospital does not constitute competition so long as the second appointment is not prohibited by his or her employment contract).

D. An NYULMC Member, a member of his or her Immediate Family, or any entity in which he or she has a Financial Interest recruits any Medical Center faculty member or employee or solicit business which knowingly disturbs, or could be expected to disturb, the existing professional or business relationships of the Medical Center with any faculty member, employee, health care provider or referral source.

E. An NYULMC Member proposes that the Medical Center hire or contract with a member of his or her Immediate Family for a position or activity that is within his or her direct or indirect supervision or control. The employment of an NYULMC Member's Immediate Family with the Medical Center must be in accordance with NYU's *Policy on the Employment of Members of the Same Family*.

F. An NYULMC Member solicits or accepts a gift, favor or anything of monetary value from a contractor, vendor, patient, co-worker, volunteer or other person with whom the Medical Center has a business relationship, except as specifically provided in the Medical Center's *Policy on Acceptance and/or Solicitation of Gifts or Benefits From Vendors, Patients and Others*.

G. An NYULMC Member uses assets, property or labor of the Medical Center to his or her personal advantage.

H. An NYULMC Member discloses or uses any non-public information obtained in the course of discharging his or her duties and responsibilities at the Medical Center to his or her personal advantage.

### VIII. Enforcement

A. Violations of this Policy are subject to disciplinary action, up to and including termination of employment or association with the Medical Center, in accordance with the Medical Center disciplinary policies and procedures applicable to the respective NYULMC Member.

B. Any failure to make a disclosure as required under this Policy by any members of a Medical Center committee will result in the member being suspended or removed from such committee.

### IX. Questions

Any questions relating to this Policy should be directed to the Office of Legal Counsel or the Office of Compliance.

### X. Relationship to Other Policies

A. This Policy and the *Policy on Trustee Conflicts of Interest* replace the Medical Center's *Conflict of Interest Policy* dated March 18, 2004.

B. This Policy is intended to supplement, but not replace, other policies and guidelines applicable to the NYULMC Member, including the conflict policies set forth in the NYU Faculty Handbook and elsewhere in the Medical Center's *Policies on Conflicts of Interest, Commitment and Consulting*.

C. A matter involving an NYULMC Member's participation in research is reviewed under the Medical Center's *Policy on Conflicts of Interest in Research and Sponsored Programs* only.