PENNSTATE HERSHEY College of Medicine

PENNSTATE HERSHEY Milton S. Hershey Medical Center

Penn State University College of Medicine (COM)
The Penn State Hershey Medical Center (PSHMC)
Standard Operating Procedures (SOPs) Regarding Review and Management of Conflict of Interest
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These standard operating procedures incorporate within them the requirements of Penn State policy RA 20 and other Penn State policies regarding Conflict of Interest as well as Policies RA 11 and RA 12 regarding intellectual property. The intent of this document is to clarify and apply these policies to meet the needs of the College of Medicine. Standards established by the College of Medicine may modify, but do not replace, those established by Penn State University as a whole.

To the best of our knowledge these standards are in compliance with:

- Title 42 Code of Federal Regulations (CFR), Part 50, Subpart F, Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought
- Title 45 Code of Federal Regulations (CFR), Part 94, Responsible Prospective Contractors
- Title 21 Code of Federal Regulations (CFR), Part 54, Financial Disclosure by Clinical Investigators

I. Definitions

A. ***"Entity"*** means any domestic or foreign, public or private, for-profit or not for-profit, business, organization, or association; including but not limited to, a sole proprietorship, partnership, corporation, limited liability company (excluding U.S. federal, state, and local government agencies).

i. Companies which are related - either as subsidiaries or commonly owned – would be considered as one entity, since changes involving one company might change the value of the other. Publicly held companies so related could be identified via the web using the company's annual 10k report. Privately held companies could likely only be so identified by their officers.

B. "***Equity Interest"*** means any ownership interest in an Entity, including but not limited to, stock or stock option, warrants, convertible debt, debentures, membership or partnership interest, as determined through reference to public shares and related share prices or, in the event of a privately held Entity, other reasonable measures that may be used to determine ownership interest and related fair market value.

C. **"*Financial Interest" ("FI")*** means anything of monetary or other commercial value, whether or not that value is readily ascertainable.

D. ***"Financial Conflict of Interest" ("FCOI")*** means any situation in which a significant financial interest (SFI) could directly and significantly affect the design, conduct, or reporting of Research, or the objectivity with which a University employee discharges his/her Institutional responsibilities

E. ***"FCOI Management Plan"*** means the action(s) taken to address an FCOI, which may include reducing or eliminating the FCOI to ensure, to the extent possible, that the design, conduct and reporting of Research, or other University responsibilities, will be objective and free from bias.

F. ***"Institutional Responsibility(ies)" ("IR")*** means an Investigator's professional responsibilities on behalf of the University. Examples of an IR include, but are not limited to:
    (1) research (regardless of whether or not it is funded);
    (2) research consultation;
    (3) teaching;
    (4) outreach;
    (5) professional practice (e.g., clinical medical practice, veterinarian practice, practice of law);
    (6) University committee memberships (e.g., Faculty Senate, Purchasing Committees); and
    (7) service on University panels, such as an Institutional Review Board ("IRB") or Data or Safety Monitoring Boards.

G. ***"Investigator"*** means any individual, regardless of his or her title or position, whether faculty, staff, or student, who has the ability to make independent decisions related to the design, conduct or reporting of University Research, but not including individuals who perform only incidental or isolated tasks related to a University Research project.

H. ***"Reimbursed Travel"*** Travel that is reimbursed to an investigator. Thus, the exact monetary value would be expected to be readily available.

I. "***Remuneration"*** means salary and any payment for services not otherwise identified as salary, including, but not limited to, consulting fees, honoraria, stock, stock options, warrants and paid authorship.

J. ***"Research"*** means systematic investigation, study or experiment designed to develop or contribute to generalizable knowledge. The term encompasses basic and applied research that may or may not be published in an article, book or book chapter and product development (e.g., a diagnostic test or drug). As used in this Policy, the term includes, but is not limited to, any such activity for which research funding is available from a federal, state or local government agency, or a public or private Entity, through a grant, contract or cooperative agreement (e.g., a research grant, career development award, center grant, individual fellowship award, infrastructure award, institutional training grant, program project, or research resources award). As used in this Policy, Research also includes research activities that are not funded or sponsored.
    i. However, undergraduate, medical student, or resident research projects which are not externally funded, are not published, and are completed as part of their educational curriculum do not routinely require conflict of interest disclosure and management. (See SOP for Conflict of Interest Disclosure)

K. "***Senior or Key Personnel"*** means the project director or principal Investigator and any other person identified as senior or key personnel in the grant application, progress report, or any other report required to be submitted by law or regulation.

L. ***"Significant Financial Interest" ("SFI")*** means an FI consisting of one or more of the following interests of the Investigator (and those of the

Investigator's spouse or partner and dependent child(ren)) that reasonably appears to be related to the Investigator's Institutional Responsibilities:

(1) **For publicly traded Entities**, if the value of any Remuneration received from the Entity in the twelve months preceding the disclosure combined with the value of any Equity Interest of the Investigator in the Entity as of the date of disclosure, when aggregated, exceeds $5,000.

(2) **For non-publicly traded Entities** (including but not limited to private companies, closely held corporations, partnerships or sole proprietorships), if either:

(a) the value of any Remuneration received from the Entity in the twelve months preceding the disclosure, when aggregated, exceeds $5,000, or

(b) the Investigator holds any Equity Interest (i.e., there is no *de minimis* amount for Equity Interests in a non-publicly traded Entity) in the Entity;

(3) **For non-publicly traded "Start-Up" Entities** with IP licensed from Penn State (companies formed based on a license of intellectual property from the Penn State Research Foundation to the Entity), if either:

(a) the value of any Remuneration received from the Entity, but not remuneration received from Penn State, in the twelve months preceding the disclosure, when aggregated, exceeds $5,000, or

(b) the Investigator holds any Equity Interest (i.e., there is no *de minimis* amount for Equity Interests in a non-publicly traded Entity) in the Entity;

(4) Intellectual property rights and interests (e.g., patents, copyrights) upon receipt of income related to such rights and interests (including but not limited to royalties, or licensing revenues) that exceeds $5,000 in the previous twelve months; or

(5) All reimbursed or Sponsored Travel, for the employee or his/her immediate family, that when aggregated for any entity has a value of greater than $5,000 per year. however, travel that is reimbursed or sponsored by a federal, state, or local government agency in the United States, an American institution of higher education as defined at 20 U.S.C. 1001(a), an American academic teaching hospital, an American medical center, or a research institute that is affiliated with an American Institution of higher education does **not** need to be disclosed as an SFI.

The term SFI does **NOT** include the following types of FI:

(1) salary, royalties, or other remuneration paid by the University (this includes any intellectual property rights assigned to the University and any agreements to share in royalties or licensing revenue related to the intellectual property rights) provided that the remuneration was not routed to the University by an Entity and intended for the Investigator at the direction of the Investigator in order to avoid disclosure as required by this or other related Policies;

(2) income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles;

(3) income from seminars, lectures, or teaching engagements sponsored by a U.S. federal, state, or local government agency, an American institution of higher education as defined at 20 U.S.C. §1001(a), an American academic teaching hospital, an American medical center, or a research institute that is affiliated with an American institution of higher education; or

(4) income from service on advisory committees or review panels for a federal, state, or local government agency in the United States, an American institution of higher education as defined at 20 U.S.C. §1001(a), an American academic teaching hospital, an American medical center, or a research institute that is affiliated with an American institution of higher education.

M. ***"Sponsored Travel"*** means travel that is paid for on behalf of an Investigator and not reimbursed to the Investigator directly.

II. Review Process

A. General Review Process

i. All disclosure reports made in the COINS electronic reporting system will be first reviewed and approved by the principal investigator's Department Chair. For those clinical faculty members who are also members of an Institute, however, this review will instead be conducted by their Institute Director.
   1. This departmental review should be conducted within 30 days of the disclosure
   2. If the Departmental review has not been conducted within 30 days, if the CIRC has received request for action on the disclosure from the investigator, and after at least 2 email notices to the Department chair, the CIRC may proceed with the scheduling of the disclosure for the next CIRC meeting and acting on the disclosure in the absence of Department review.
   3. CIRC will then forward its review to the Department chair for their concurrence, and accept no response as concurrence.

ii. The Conflict of Interest Specialist will then perform an initial review of disclosures to determine whether the disclosed SFI is related to research, teaching, professional practice, or administrative responsibilities, such as purchasing, which are a part of the employee's University responsibilities
   1. The SFI will be deemed to be related to any one or several of these responsibilities if it's value could be affected, or is in an entity whose financial interest could be affected, by the employee's exercise of that responsibility (See Criteria for SFI Related to Institutional Responsibilities – Appendix I)

iii. If this initial review reveals any relationship to Penn State responsibilities, the disclosure will be brought to the CIRC for a ruling regarding the existence of potential conflict of interest. A potential conflict of interest exists if a significant financial interest:
    1. Could directly and significantly affect the design, conduct or reporting of related Research.
    2. Could directly and significantly affect University Related education, professional practice, or administrative or purchasing decisions made on behalf of the University

iv. If this potential does exist, CIRC is responsible for determining the plan for management or elimination of the conflict.
In some cases, management of a potential conflict will call for the appointment of a monitor. In these cases, the Campus Conflict of Interest monitor will serve in this role and will report annually, at a minimum, to the CIRC as to the status of the assigned COI. If the CIRC deems it appropriate to appoint an alternate monitor, the CIRC will use selection criteria that insure the monitor has no collaboration history with the disclosing individual.
When CIRC makes or modifies a conflict of interest determination or management plan, the disclosing individual shall be informed in writing, with copies sent to their Department chair or other supervisor, as well as to other individuals who are named as part of the management plan.
Whenever CIRC determines that a FCOI exists in research related to human subjects, the campus Institutional Review Board will be routinely informed of the conflict of interest and management plans involving investigators.

The CIRC shall communicate to the IRB summary information about the nature and amount of any SFI related to human participants in research, along with the Committee's findings, FCOI determination and any FCOI Management Plan approved by the Committee. The IRB has final authority on whether the proposed Research should be approved and shall not usually render its decision until after the Committee has reviewed the SFI and implemented any necessary FCOI Management Plan. The IRB shall consider the FCOI Management Plan, if any, in its final determination and also may include protections in addition to the FCOI Management Plan if it deems they are necessary for the protection of human participants.

The precise relationship regarding timing of reviews which has been established between CIRC and the IRB depends on the likelihood of bias and the risk to human subjects, and is shown in Appendix II.
Annual reviews of all plans for management of significant financial or business interests will be conducted by the Conflict of Interest Monitor

and, in the case of complex or high value conflicts, a sub-committee of the CIRC.

v. PSU policies prevail in the case of perceived discrepancies with other policies on the unified campus.

B. Management of Conflict of Interest

i. Management of COI includes all measures recommended or taken to insure that research, purchasing, or other university responsibilities are conducted objectively and free of conscious or unconscious bias.

ii. Management may require elimination of the COI, by sale of an equity interest or removing a source of income or financial relationship causing the conflict from the employee.

iii. More commonly, management may include conditions imposed on either the financial interest or the University responsibilities to encourage transparency and objectivity. Examples of these conditions could include:

1. For Research

a. Public disclosure of the FCOI
b. Disclosure of the FCOI to human subjects
c. Requiring a non-conflicted co-investigator to obtain informed consent from human subjects
d. Requiring that data collection, analysis, and interpretation be conducted in conjunction with a non-conflicted monitor or co-investigator capable and willing to take appropriate measures to protect the design, conduct and reporting of the Research against potential bias resulting from the FCOI;
e. Requiring notification of all co-investigators, and especially those named as part of the management plan in item (d) above, as well as all other “Study Personnel” identified as part of the grant submission, the IRB submission, or COINS disclosure. (Appendix III)
f. In instances in which trainees (graduate or medical students, residents, or fellows are involved in the Research, taking needed steps to protect the students' academic progress, intellectual property interests, and welfare. These would usually include:

i. For graduate students, medical students, post docs, residents, and clinical fellows - the individual (student, postdoc, resident, fellow) should be notified of the potential conflict via email, letter, or personal discussion. This notification should include the names of faculty members, usually CIRC members, who the trainee could contact as advocates if any concerns arise regarding significant external financial interests.

ii. In addition, for graduate and medical students, their advisor should be notified, by copy of the student's email, unless the advisor is the conflicted person.
iii. If the student advisor is the conflicted person, then for graduate students the remaining members of their thesis committee should be notified.
iv. The notification of the advisor and thesis committee is particularly important if the conflict involves the student's PhD thesis or meeting a significant part of their graduation requirements.

g. Modification of the Research plan;
h. Change of personnel or personnel responsibilities, or disqualification of personnel from participation in all or a portion of the Research, including interim disqualification of personnel from the Research between the date of disclosure and the completion of the University's review of the matter;
i. Disclosure of the conflict in any publications related to the research

2. For University Purchasing Responsibilities
   a. Disclosure of an SFI related to purchasing to the administrator or Committee chair responsible for the purchasing decisions
   b. Placing purchasing responsibility related to SFI, or a competitor of an entity in which an employee has SFI, in the hands of a non-conflicted administrator or committee
   c. Recusal by the conflicted individual from committee purchasing decisions related to the conflict
   d. Disclosure of his/her conflict before the conflicted individual presents information regarding purchases to the responsible administrator or committee

iv. Appointment of a College of Medicine Conflict of Interest Monitor
   1. The Monitor would review with the investigator, at least annually, each study under management for COI, to document adequate informed consent, disclosures, and adherence to the management plan.
      a. The monitor could, as part of this review and at his/her discretion, obtain information from non-conflicted co-investigators included as part of the management plan.
   2. For complex conflicts or those potentially involving the institution, a committee could be assigned this monitoring function

C. Conflict of Interest Review and/or Management For Specific Circumstances
   i. Administrative Review Process (Appendix IV)

ii. Non-Profit Entities (See Non-Profit Entity Standard Operating Procedure Appendix V)
iii. Travel (See Travel Standard Operating Procedure, Appendix VI)
iv. Sub-Awards and Sub-recipients (Appendix VII)
v. Conduct of Human Subjects Research regarding Intellectual Property owned partially by the University or sponsored by a company in which the University has a financial interest.(Appendix VIII)
vi. Retrospective Reviews, Mitigation Plans, and Reports (Appendix IX)
vii. Procedures Related to Licensed Start-Up Company (Appendix X)

III. Appeal of Decisions of the Review Process

A. Appeal of a decision of CIRC on an individual COI issue will be to the Dean of the College of Medicine, whose decision shall be final

IV. Public Disclosure of Conflicts of Interest of PHS Funded Investigators

A. Public disclosure of financial conflicts of interest involving individual employees of the College of Medicine or PSHMC will be made only, as required in Federal PHS regulations, for conflicts of interest involving studies funded by the Public Health Service (PHS).

B. Response to requests for Public Information:

The Conflict of Interest staff will respond via email or in writing to anyone requesting this information within 5 business days of receipt by the COI Program, for Financial Conflict of Interest involving PHS studies performed at PSHMC.

The requestor will receive a letter from the COI program either providing the information below or specifying one of the following reasons it could not be provided: 1) the individual for whom information is requested is not a current PSHMC/COM employee, 2) the individual for whom the information is requested is not a PHS funded investigator or the study requested is not funded by PHS, or 3) the study for which information is requested was not performed at Penn State Hershey.

The information to be made public will include the following:

- The Investigators' name
- Investigators' title and role with respect to the research project;
- Name of the entity in which the *significant financial interest* is held;
- Nature of the *significant financial interest*; and
- Approximate dollar value of the *significant financial interest* or a statement that the interest is one whose value cannot be readily determined through reference to public prices or other reasonable measures of fair market value.

If the investigator has no applicable conflict of interest, that information will be provided as well.

The investigator will be copied on this response.

C. Requests for Public Financial Conflict of Interest Information
Requests for Publicly Accessible information regarding Conflicts of Interest in PHS-sponsored Studies should specify the full name of the individual and/or the study for which information is requested and be made in writing either using the form available on the Office of Administration web site or via email to:

Office of Administration/Administrative Affairs
Attn: COI Program – Public Accessibility Request
500 University Drive
Hershey, Pennsylvania 17033
AdministrativeAffairs@hmc.psu.edu

The COI program may not be able to provide complete information if the requestor does not request information regarding a specific employee or employees or a specific funded study or studies.

Answers to questions or further information can be obtained via email at:

AdministrativeAffairs@hmc.psu.edu

or via telephone to our office at 717-531-0003 and then dial extension 283526.

D. Office of Administration Web site:
http://www.pennstatehershey.org/web/administration/public-disclosure

V. Reporting to Sponsoring or Funding Agencies

A. The COI office will make available to the Office of Research Affairs all reviews and actions regarding FCOI determinations related to sponsored studies, including those sponsored by PHS agencies
B. The office of Research Affairs will then file required reports of these actions, and of any related FCOI, to the PHS and other funding agencies
C. Upon request, the COI office will provide all FCOI reports to research sponsors as required by Federal FCOI regulations (42 CFR 50.604(h) and 50.605 (b)), National Science Foundation rules (NSF 510), other sponsor term and conditions, and as may be required by the management plan.

VI. Maintenance of Records

A. Under Federal NIH regulations (42 CFR, Part 50, Subpart F) the COI office is required to keep all records of all investigator disclosures of financial interests and the Institution's review of, or response to, such disclosure (whether or not a disclosure resulted in the Institution's determination of a Financial Conflict of Interest) and all actions under the Institution's policy or retrospective review, if

applicable, for at least 3 years from the date of submission of the final expenditures report or, where applicable, from other dates specified in 45 CFR 74.53(b) and 94.42 (b).

VII. Responsibility for the Review and Management of Conflict of Interest at PSHMC/COM

A. Conflict of Interest Review Committee (CIRC)

1. Is Responsible to provide oversight and establish policies regarding conflicts of interest on the unified Penn State University College of Medicine/Milton S. Hershey Medical Center campus
2. Is directly responsible to the Dean of the College of Medicine and CEO of PSHMC for adjudication of conflict of interest issues
3. Is administratively responsible to the Vice Dean for Research and Graduate Studies
4. Membership

A. The Conflict of Interest Review Committee (CIRC) membership will reflect representation of the faculty members employed by both Penn State COM and the PSHMC. Members are appointed by the Dean of the COM and Chief Executive Officer of the PSHMC and include:

B. <u>Voting members</u>

i. Committee Chair
ii. Committee Vice Chair
iii. Six faculty investigator(s), three physicians and three basic scientists, with experience in research and/or technology transfer.
iv. One Community Representative

C. <u>Non voting members *ex officio*</u>

i. Vice Dean for Research and Graduate Studies in the COM
ii. The Treasurer of the PSHMC or designee
iii. The Associate Dean for Technology Development
iv. The Associate Dean for Research
v. A representative of the Human Subjects Protection Office (HSPO)
vi. The Chief Compliance Officer of the PSHMC
vii. The Campus Conflict of Interest Specialist

D. The voting members, including the Chair and Vice Chair, are appointed to the CIRC for staggered three-year terms.

E. In order to provide continuity in CIRC decisions, voting members are expected to attend a majority of the scheduled CIRC meetings in each academic (fiscal) year.

5. The CIRC will meet on a regularly scheduled basis, at least monthly. The Chair may call additional meetings as needed.
    i. Employees with issues coming before CIRC are invited, encouraged, but not required (except in cases of non-compliance) to attend meeting of CIRC to discuss potential FCOI issues with which they are involved
6. CIRC Recommendations in any individual case will be by majority vote of all voting members present
7. More than one-half of the nine voting members (5) will constitute a quorum.
8. CIRC review and recommendations in an individual case may be made by email if there is no objection from any voting member. If there is an objection, the matter will be tabled and reviewed at the next regularly scheduled meeting.
9. If the person disclosing conflict of interest is a member of the CIRC, that person, as any other faculty member, may be present for the initial discussion but shall be recused from the committee's consideration and vote regarding this conflict.

B. COI Executive Committee
    1. Members, and responsibilities of each
        i. CIRC Chair and Director of the Conflict of Interest Program
            1. Responsible for the operation, fairness, and effectiveness of the Campus Conflict of Interest program
            2. Receive College of Medicine COI disclosures and annual disclosure updates, and implement CIRC decisions regarding individual COI management
            3. Serve as liaison with Office of Research Protections at University Park.
            4. Establish and update COI policy and procedures for the College of Medicine
            5. Implement COI policies and procedures for the College of Medicine
            6. Preside at the meetings of the CIRC
            7. Advise and assist individuals with significant business or financial interest with the process of disclosure and management of COI. Evaluate disclosed significant financial interests and recommends to the CIRC action and possible plans to manage any potential COI.
            8. In conjunction with the COI Specialist, perform or direct conflict of interest monitoring as required by any COI management plan established by CIRC
        ii. CIRC Vice Chair

1. Assist the CIRC Chair in performing any of the functions above
2. Serve in the absence of the CIRC Chair

iii. Associate Dean for Research
1. Provide information about funded research studies, and possible COI reported in connection with the submission of grant applications to the committee, report COI information from the Committee to NIH and other funding agencies as required, provide confirmation of COI management for recipients of sub-awards at other institutions or, if they have no management refer them to CIRC for management; verifies funding sources, amounts, dates, etc. Alert the committee of possible undisclosed financial interests.

iv. Associate Dean for Technology Development
1. Advise and provide expert consultation to CIRC regarding technology and small business development, and intellectual property issues
2. Alert CIRC to potential COI issues associated with the formation development of companies by PSHMC faculty or staff members

v. Conflict of Interest Specialist
1. Report to the Chair of CIRC and Director of the Conflict of Interest Program
2. Receive new, annual, and updated disclosures and screening the disclosures for completeness and accuracy.
3. Conduct the preliminary review of disclosures to determine relatedness to University responsibilities regarding research, education, Professional practice, or administration.
4. Assist individuals in the disclosure process, and trains individuals and departments regarding COI disclosure process.
5. Prepare documents for CIRC meetings, take and prepare minutes. Maintain records that document the decisions of CIRC, and manage the public disclosure of potential conflicts of interest involving PHS funded research.
6. Serve as liaison with the University Park Office of Research Protections, and as the designated campus resource for the COINS system
7. Respond to any requests for public reporting of financial COI related to Public Health Service sponsored research, within 5 business days of the

request, with the information specified in this procedure

vi. Assistant Conflict of Interest Specialist
    1. Assist and become familiar with all functions of the Conflict of Interest Specialist as described above, as needed
    2. Provide continuity in the ongoing functions of the COI Specialist And perform these functions in the absence of the COI specialist

2. Responsibilities – Delegated to the Executive Committee from CIRC
    i. Oversee the COINS disclosure process
    ii. Educate faculty members and Departments regarding COI disclosure and management
    iii. Perform the initial review of disclosures and determines whether a relationship exists between an SFI and Penn State research, education, clinical, or administrative responsibilities (Appendix I)
    iv. Conducts Administrative Review
        1. Review by the Conflict of Interest Specialist or the Executive Committee to determine the existence of apparent conflict of interest and develop management plans in circumstances and according to protocols established in these procedures or by CIRC
        2. The results of Administrative reviews are reported at the next scheduled CIRC meeting

C. Relationship to Penn State University Office of Research Protection and Conflict of Interest Official
    1. The University's Office for Research Protections ("ORP") in University Park, and its director, the "Conflict of Interest Official" (COIO), are responsible for overseeing the implementation and enforcement of Penn State's conflict of Interest policies. The COIO also shall be responsible for ensuring compliance with all federal regulations and requirements concerning conflicts of interest (see, e.g., 42 C.F.R. §§ 50.604(d) and 50.605(A)(1) – (3)), including: conflict of interest training, FCOI management, FCOI reporting to sponsoring agencies, monitoring for compliance with FCOI Management Plans, enforcement of sanctions for noncompliance with this Policy and/or federal regulations, maintenance of all records relating to disclosures and FCOI management, and public disclosure of FCOI related to PHS sponsored research. The COIO has delegated responsibilities for management of individual conflict of interest at the College of Medicine to the Dean and the Vice Dean for

Research and Graduate Studies at the College of Medicine. (Appendix II)

VIII. The Penn State COM and PSHMC support the spirit of the Sarbanes-Oxley Act of 2002 through the establishment of independent audit policies and procedures for the PSHMC.

IX. Resources, References

A. Individual COI program Standard Operating Procedures – Supplement to RA 20: Procedures Applicable Only to Disclosures of SFI and COI Related to PHS-sponsored Research (University Park web site)
B. NIH Frequently Asked Questions

Appendix I
Conditions Commonly Used to Establish Relationship of Financial Interests to University Responsibilities

Professional Practice

- An employee has a SFI in an entity to which he refers patients
- An employee has an SFI in an entity which provides products or services which he/she commonly recommends, uses, or prescribes in his practice

Purchasing

- Products or Services are being purchased from a company in which an employee or investigator has a SFI
- The employee or investigator has a SFI in a company which manufacturers or sells a competing or comparable product, device, or service or one being considered for purchase

Research

- The employee or investigator has SFI in an entity to or from which research space, personnel, or facilities will be leased or sub-contracted by the University
- IP owned by the employee or investigator OR by an Entity in which the employee or investigator has SFI, or a competing product, is being used, tested, or developed by the research
- New applications or markets are being tested for IP owned by the employee or investigator OR by an Entity in which the employee or investigator has SFI, or by a competitor
- IP owned by the institution and licensed or with an option to be licensed by an entity in which the investigator has an SFI is being used, tested, or further developed in the research
- An entity in which an employee or investigator has an SFI is a sub-recipient under the proposed research
- An investigator will be involved in research under a sub-award from an entity in which he/she has an SFI
- An employee or investigator has an SFI, including equity, income, or reimbursed travel, from an entity that sponsors or is a part in the research
- An investigator holds any position with fiduciary obligation, is a paid consultant, or a paid commissioned speaker for an entity whose products or services are used in, are the subjects, or closely related to the research

Teaching / Education

- A faculty member has an SFI in an entity which produces texts or course materials, including web based resources, required in his/her courses
- A faculty member has an SFI in an entity which produces products, devices, or services which he/she describes, demonstrates, or recommends as a part of his/her didactic or clinical teaching

Appendix II
Relationship between IRB and CIRC Review

I. Coordination of Submission
   a. An investigator with SFI related to the proposed research would be expected to submit simultaneous applications for review by IRB and CIRC
      i. IRB application via the electronic e-submission in CATS
      ii. CIRC via the electronic COINS system
      iii. These applications would not usually be submitted until the protocol and assurance of funding had been received from an industrial sponsor, but they are required to be submitted at the time of grant submission for a PHS agency
   b. IRB Application would contain 2 questions regarding Conflict of Interest (COI)
      i. Does any investigator have COI?
      ii. If so, names of investigators with COI, a description of their role in the research study, the type of financial or business interest and whether it was reported to CIRC.
   c. IRB procedures would state that the IRB would not review a protocol until that protocol was included in an updated COINS disclosure
   d. COINS disclosure would include confirmation of IRB application and IRB number when obtained
   e. IRB staff would confirm in COINS that updated disclosure had been made before scheduling the IRB meeting
   f. The Associate Director of the IRB and Human Protection Administrator, and the IRB liaison to CIRC, would have COINS staff access on behalf of the IRB
   g. COINS staff would not confirm IRB submission, since CIRC review could proceed without IRB review

II. Scheduling of Reviews
   a. CIRC would schedule review for the next scheduled monthly meeting after the submission was complete, or the following meeting if the disclosure was complete only within 5 days of the next meeting
   b. IRB would schedule their review as outlined on the following table, depending on the human subject risk and COI potential and using the anticipated date of CIRC review to best coordinate the two reviews

III. Reporting of Decisions
   a. CIRC will report to IRB its decision and management plan within ideally 1-2 days, and at most 5 days, after its meeting via email. If CIRC determines that a COI does exist, it will include in its communication to the IRB the financial interest on which the conflict is based (i.e. “paid consultant”, “stockholder”, “paid speaker”, “officer”, “owner”).
   b. CIRC will develop several “usual and customary” management plans for the different levels of risk and bias on the attached table, and adhere to

these, especially regarding consent wording, whenever possible so that IRB can anticipate its action if they review the protocol prior to CIRC

i. In this case discussion between Committee chairs or staff may also be helpful

IV. Decision follow-up

a. IRB will incorporate CIRC recommendations into its own requirements as it sees fit.
b. Each group will follow up on its own recommendations with its own annual review process
c. If IRB sees that the recommendations of the two groups will differ significantly, it would notify CIRC, to avoid any misunderstandings and conflicts in ongoing monitoring.

Category	**COI Potential**	**Human Subjects Risk**	**Examples**	**Review Process**	**Anticipated CIRC Actions**
Level I	Low potential to create research bias or to interfere with human subjects protection	Minimal or greater than minimal	consultant, or advisory board activity for the sponsor, *but topic is <u>unrelated</u> to the product/issue under investigation*	The IRB will review the protocol <u>prior</u> to the CIRC, but only grant approval <u>after</u> the CIRC review has been completed	• Disclosure in consent process • Research monitor*
Level II	Intermediate potential to create research bias or to interfere with human subjects protection	Minimal or greater than minimal	consultant, or advisory board for the sponsor *and activity is <u>related</u> to the product/issue under investigation*	The IRB will review the protocol <u>prior</u> to the CIRC, but only grant approval <u>after</u> the CIRC review has been completed	• Disclosure in consent process • Research monitor*
Level IIIa	High potential to create research bias	Minimal	Protocol development, data analysis, or	The IRB will review the	• Disclosure in consent process

	or to interfere with human subjects protection		presentation of data as a paid consultant for *activity related to the product/issue under investigation*	protocol prior to the CIRC, but only grant approval after the CIRC review has been completed.	• Research monitor*
Level IIIb	High potential to create research bias or to interfere with human subjects protection	Greater than minimal	Protocol development, data analysis, or presentation of data as a paid consultant for *activity related to the product/issue under investigation*	The IRB will defer review until after the CIRC has reviewed the protocol and COI.	• Disclosure in consent process • Research monitor • Other actions TBD
Level IV	Very high potential to create research bias or to interfere with human subjects protection	Minimal or greater than minimal	-Stocks/equity held by study personnel or their spouse or partner/dependent - Participate in invention of product - Intellectual property rights - Patents, license - Royalties - Ownership of a facility where the research will take place	The IRB will defer review until after the CIRC has reviewed the protocol and COI.	• Disclosure in consent process • Research monitor • Other actions TBD

*If other guidelines are recommended by the CIRC in addition to the anticipated actions listed above for categories I, II and IIIa, the study will require re-review by the convened board.
IRB = Institutional Review Board; CIRC = Conflict of Interest Review Committee; COI = Conflict of Interest; TBD = To Be Determined.

Suggested Consent Form Language for COI Disclosure

Type of COI	Examples of consent form language for disclosure of COI
Level 1: consultant, or advisory board for the sponsor, but topic is unrelated to the product/issue under investigation	[Name of investigator] serves [type of relationship, e.g., as a paid consultant, on the advisory board, as a paid speaker] for the sponsor. *This financial interest has been reviewed by the PSU Institutional Review Board and Conflict of Interest Review Committee.* If you would like more information, please ask one of the research staff members.
Level 2: consultant, or advisory board for the sponsor *and activity is <u>related</u> to the product/issue under investigation*	[Name of investigator] serves [type of relationship, e.g., as a paid consultant, on the advisory board, as a paid speaker] for the sponsor on projects related to [product/issue] being studied in this research. *This financial interest has been reviewed by the PSU Institutional Review Board and Conflict of Interest Review Committee.* If you would like more information, please ask one of the research staff members.
Level 3a: Protocol development, data analysis, or presentation of data as a paid consultant for *activity <u>related</u> to the product/issue under investigation*	[Name of investigator] has served [type of relationship, e.g., as a paid consultant for the sponsor, and may in the future again be a paid consultant for the sponsor to assist with interpretation of the study results and presentations of study results at meetings.] *This financial interest has been reviewed by the PSU Institutional Review Board and Conflict of Interest Review Committee.* If you would like more information, please ask one of the research staff members.
Level 3b:	As determined by the IRB based on the CIRC recommendations.
Level 4	As determined by the IRB based on the CIRC recommendations.

Appendix III
Process for Notification of Co-Investigators and Other PSU Employees With Roles or Responsibilities Related to a Management Plan (Approved by CIRC September 10, 2013)

Conflicts of Interest Involving Research

1. Upon investigator acceptance of a management plan, COI staff will notify all known PSU employed co-investigators, as well as all other “Study Personnel” identified as part of the grant submission, IRB submission or COINS disclosure, of the disclosed conflict referenced in the management plan.

2. Non-conflicted co-investigators who have requested to provide transparency or corroboration functions in the management plan, as part of their co-investigator role, will receive written notice of this role. Responses will not be routinely required from these co-investigators, but may be requested by the Monitor if the need arises.

3. Annually, at the time of monitoring, the College Conflict of Interest Monitor will confirm and document the names of all current non-conflicted PSU-employed co-investigators who fulfill transparency and/or corroboration roles. This information will be included in the monitor report, and each of these co-investigators will then receive an annual written email notice as a reminder. “Study Personnel” will also be identified annually and receive annual notification of the conflict, for their information.

4. It is the responsibility of the Investigator to notify the CIRC and the COI Monitor of any changes in co-investigator assignments or arrangements to fulfill functions stated in the management plan, for formal approval.

Conflicts of Interest Involving Individual or Committee Purchasing Responsibilities

1. Upon faculty member acceptance of a management plan, COI staff will notify all known responsible Penn State administrators, or responsible purchasing committee chairs, of the conflict. In addition, any administrators or committee chairs asked by the management plan to provide for the recusal of the conflicted faculty member, or to exercise decision-making responsibility in their stead, will receive written notice of this request. Responses will not be routinely required from these administrators, but may be requested by the Monitor if the need arises.

2. Annually, at the time of monitoring, the College Conflict of Interest Monitor will confirm and document the names of all current Penn State administrators or committee chairs who are in a position to fulfill either of these roles. This information will be included in the monitor report, and each of these administrators or chairs will then receive an annual written email notice as a reminder.

Appendix IV
Administrative Conflict of Interest Review Process

Description:

Those disclosures that present a low potential for significant conflict of interest may be handled by the College of Medicine Conflict of Interest Review Committee using an administrative review process, designed to be completed within seven business days of the date on which the Conflict of Interest Specialist is notified.

Disclosures could be eligible for Administrative Review based either on the nature of the financial interest disclosed or the nature of the related research:

Eligibility Criteria for multi-center clinical trials: (all must apply)

1. The study includes subjects from multiple clinical centers.
2. The study is initiated, and the protocol written, outside Penn State University by investigators and an industrial sponsor who are not affiliated with Penn State University
3. Data analysis, interpretation, and publication are conducted outside Penn State University by investigators who are not affiliated with Penn State University
4. Data safety monitoring is conducted outside Penn State University
5. The trial is double-blinded or utilizes objective outcomes

6. The investigator's involvement in the study will be limited to responsibilities at the study site. These activities can include participation in national meetings of site investigators, or similar activities, but not participation in national data analysis, interpretation, or publication

7. Any financial interest related to a Publicly-Traded Company for which:
    a. The total financial interest related to a publicly traded for-profit company, including annual compensation, equity, and travel expenses, has a value less than $20,000, and, whatever its value represents less than a 1% interest in the company; AND
    b. The investigator's personal financial interest with the related company will not include marketing presentations but may include educational talks

Eligibility Criteria for Faculty Financial Interest: (if either of the 2 following criteria is met, disclosure is eligible for administrative review regardless of the study)

1. Any financial interest related only to an independent non-profit entity not sponsored or related to a for-profit company
2. Any financial interest related only to travel

Any disclosure can be considered for Administrative review if a similar financial interest and research study for the same investigator was previously reviewed by CIRC and is currently under management and;

a. The research study utilizes the same research design as the previously reviewed study
b. The study is written by the same industrial sponsor as the previously reviewed study

Process:

1. Data regarding the study and the investigator's financial interests will be entered into the COINS system and approved by the Department chair before the time the request for review is made.
2. The investigator will request an administrative review of the research protocol by email to the Conflict of Interest Specialist. Alternatively, the Conflict of Interest Executive Committee may consider a disclosure for administrative review if it meets the above criteria at their own initiative.
3. The study and investigator will be reviewed by the Conflict of Interest Specialist for eligibility, and the investigator notified of eligibility and when to expect an answer. CIRC reserves the right to require a full review of any study.
4. When the review is complete, at the latest in seven business days, a letter including the determination of FCOI and describing the study and management plan below will be sent to the investigator.
5. The disclosure and review would be presented to CIRC for approval at its next regularly-scheduled meeting.
6. The approval would only be valid with final IRB approval.
   Approval for the Administrative Conflict of Interest Review Process does not mean qualification for an expedited IRB review, and likewise an expedited IRB review does not mean qualification for an Administrative Conflict of Interest Review.

Management plan for multi-centered clinical trials:

1. Informed consent for the study will be obtained by a non-conflicted co-investigator or study coordinator without your involvement. However, you may be involved in the explanation of the protocol and its risks and benefits, answering patient questions, and in assuring that subjects meet the study entrance criteria.

2. Your potential conflict of interest would be disclosed as part of the consent process and included in the consent form using the approved wording.

3. If you are involved in data collection and/or adverse event analysis for this study site, the objectivity of the data and analysis would either be able to be verified using source documents, or by a non-conflicted co-investigator.

4. You would not be involved in the central data analysis or data interpretation for this multi-centered study.

5. Ongoing monitoring with Roger Anderson, Ph.D., College Conflict of Interest Monitor would be required and would occur on at least an annual basis, to verify the continued adherence to the above conditions. Please contact Dr. Anderson before you begin work on the study, or expend study funds, to arrange the monitoring schedule.

6. If you author any independent publications based on data from this study, they would be reviewed by the conflict of interest monitor before publication, and the conflict of interest would be disclosed as part of the publication process.

7. At the time of your acceptance of this management plan, and annually thereafter, all known con-investigators will be notified of this perceived conflict of interest and of any role they may have as part of this management plan.

8. [for investigators who disclose serving as a commissioned speaker] Your speaking activities on behalf of [name of company] will be limited to educational and scientific presentations and not include promotional presentations, according to the terms of the H.M.C. Industry Relations Policy.

9. The Institutional Review Board and CIRC should be informed if your conflict of interest status changes, if any graduate or medical students participate as co-investigators in this study, or you plan any independent publications using study data.

Management plan for all other disclosures:

The management plan provisions will be in accordance with the risks for bias, the consequences of any potential bias, and the risk to human subjects, if any. The management plan would be based on one of the CIRC standard management plans currently in use.

Appendix V
Non-Profit Entities Standard Operating Procedure

Overview

All College of Medicine "Investigators" are required to disclose significant financial interests related to "not for profit entities". This includes travel that is reimbursed or sponsored by not for profit entities as well (see travel SOP).

All Other College of Medicine "Faculty and/or designated administrators" are NOT required to disclose significant financial interest related to "not for profit entities", therefore this SOP only applies to College of Medicine "Investigators".
The following standard operating procedure "SOP" provides the general principles for Penn State College of Medicine review of the disclosure of significant financial interests related to not for profit entities in order to minimize the risk of bias in related research, teaching, clinical care, or purchasing decisions. These principles are, however, based on the premise that relationships with independent non-profit entities are significantly less likely to lead to FCOI than those involving for profit entities.

Definitions

"Non-Profit Entity(s)" - 501(c)(6) professional association(s) or charitable 501 (c)(3) organization(s)

Independent Non-Profit Entity – an Entity which has attained tax-exempt status under the Internal Revenue Code, and is not funded primarily, or controlled by, a for-profit Entity or Entities. An example would be an Entity which collects contributions from many different sources and uses that revenue to fund research in the field of a particular disease, including but not limited to the American Cancer Society, the Muscular Dystrophy Association or the Bill and Melinda Gates Foundation, or a professional society that exists to advance a particular field of study, including but not limited to the American Medical Association or the American Chemical Society.

Industry-controlled Non-Profit Entity – an Entity which has attained tax-exempt status under the Internal Revenue Code and which receives a majority of its support from for-profit Entities. An example would be a non-profit organization with the purpose (explicit or tacit) of advancing the commercial prospects of a particular commodity, and which receives most or all of its revenue from for-profit manufacturers and distributors of that commodity. Some examples include but are not limited to the National Dairy Council or the American Coal Council.

Procedures

Disclosure

An “Investigator” is responsible for disclosing significant financial interests related to a “non-profit entity” if the value of the remuneration in the previous 12 months exceeds $5,000. In addition, if unusual circumstances result in the “Investigator” holding a financial interest equivalent to an equity interest in the “non-profit entity” regardless of the amount, it is required to be disclosed.

However, “Investigators” are not required to disclosure significant financial interest related to federal, state or local government agencies or institutions of higher education in the United States, as defined in NIH regulations.
All disclosures of significant financial interests are reported via the electronic conflict of interest system (COINS).

Review

If the non-profit entity is “Independent” as defined above, if it is not financially related, as far as can reasonably be determined using readily accessible information, to a for-profit organization, and if purchasing decisions are not involved in the potential conflict, then **no further review is required** from the COI staff or COI committee:

If the non-profit entities and significant financial interests related to the “non-profit entity” reported do not meet the above listed criteria, or if the potential conflict of interest includes Penn State purchasing decisions involving the non-profit entity, the COI committee will review the disclosure for potential conflicts.

Appendix VI
Travel Standard Operating Procedures

Overview

All College of Medicine "Investigators" are required to disclose the occurrence of all travel expenses incurred by themselves, their spouse or partner, or their dependent children, for which they are reimbursed, or which are paid (or "sponsored") for them, by entities outside of Penn State. Travel must be disclosed in COINS within 30 days of the occurrence of travel. The disclosure of travel includes that which is sponsored or reimbursed by for-profit as well as non-profit entities, except governmental agencies or educational institutions within the United States as defined in NIH regulations.

All Other College of Medicine "Faculty and/or designated administrators" are only required to disclose travel that is sponsored or reimbursed by for-profit entities.

There is, however, a $5,000 minimum dollar threshold, per year, for any employee, their spouse or partner, and their dependent children, applied to travel reimbursed or sponsored by a single entity. Therefore, only if the amount of reimbursed or sponsored travel is greater than $5,000 when aggregated each year for any given outside entity that is related to an "investigator", "faculty" or "designated administrator's" institutional responsibilities must the travel be disclosed as significant financial interest.

The following standard operating procedure "SOP" outlines how Penn State College of Medicine will review the disclosure of reimbursed or sponsored travel in order to minimize the risk of bias in related research, teaching, clinical care, or purchasing decisions.

Review Procedure

COI staff in the office of Administrative Affairs will review all travel disclosures to determine if the travel presents any risks of bias to an "Investigator's" current research or if the travel presents any risks of bias in regard to purchasing decisions or other Penn State responsibilities that are made by an "Investigator", "Faculty Member" and/or "Designated Administrator".

If the travel reported meets the following criteria, and purchasing decisions are not involved, then **no further review is required** from the COI staff or COI committee:

1. If the reimbursed or sponsored travel is paid by a foreign institution of higher education, a foreign academic teaching hospital, a foreign medical center or a foreign research institution that is affiliated with an institution of higher education, to allow the discloser to collaborate on research, professional practice or teaching with the host institution or host researchers, then no further conflict of interest review is required

2. If the reimbursed or sponsored travel is paid by an independent non-profit entity, not sponsored or related to a for-profit entity, no further conflict of interest review is required.

3. If the reimbursed or sponsored travel is required for the discloser's role as a site investigator (i.e., travel to an investigators meeting), no further conflict of interest review is required.

If the travel reported does not meet the above listed criteria, or if the potential conflict of interest includes purchasing decisions, then the travel shall be reviewed first administratively and then by the COI committee as deemed necessary for potential conflicts of interest with research and/or purchasing.

Related policies:

Industry Relations Policy

Appendix VII
Subrecipients and Subawards on Public Health Service Proposals and Awards

Procedure for Identifying, Disclosing, and Reviewing Potential Conflict of Interest within Subrecipients and Subawardees related to funded Research

1. Any funding proposal submitted to a PHS agency that plans to use a subrecipient to complete a portion of the proposed research will be identified by the Office of Research Affairs (ORA). ORA will determine whether the identified subrecipient organization has a PHS-compliant conflict of interest policy prior to submission. If the organization maintains a PHS-compliant policy, then the subrecipients are expected to follow their policy. If the subrecipient organization does not have a PHS-compliant policy, then they must submit a disclosure to Penn State prior to proposal submission.

2. In order for each subaward to be approved, ORA will determine whether the subrecipient is part of a compliant organization that will identify and manage its conflict of interest, or whether it desires Penn State to identify, make determinations, and manage any conflict of interest of its investigators. If managing its own conflicts of interest, the recipient will report to the ORA any identified conflicts of interest and their management either before any grant funds are spent, or, if the SFI is reported later, within 30 days of the time the SFI is reported, so that ORA may report the same to the PHS sponsoring agency before grant funds are spent or within 60 days of initial disclosure.

3. For those subrecipients who request that the College of Medicine manage their potential conflicts of interest, ORA will notify the Conflict of Interest Office, providing contact information regarding each investigator involved.
    a. The Conflict of Interest Specialist will provide the College of Medicine disclosure procedures to the sub-recipient and request disclosure on either a paper or electronic form, outside of COINS, of any SFI related to the subaward, and the investigator's role within the sub-award and related study, within 30 days.
    b. The Conflict of interest Specialist will follow standard Penn State procedures in first determining relatedness of the SFI to the research, then perform an administrative review as approved by CIRC, or referral to CIRC to determine financial COI and either recommend elimination of the COI or develop a plan to manage that COI, within 30 days.
    c. For those subrecipients who disclose financial COI that has been determined to be related to the study, the NIH de minimus threshold of $5,000 annually from one company related to the study will be used to delineate the need for management and monitoring.
    d. A management plan limited in scope will be developed in order to allow reasonable monitoring, using electronic communication, of subrecipients who are not Penn State employees or faculty members, and practice at a considerable distance from Hershey. This management plan will be

compliant with current PHS regulations, with the goal of disclosure to potential human subjects to promote informed decision making as well as promoting transparency and minimizing potential bias in the research study.

e. The COI Office will obtain written agreement to the management plan from the investigator, and notify ORA of the conflict and management plan within 30 days, so that they may notify the PHS sponsoring agency.

Appendix VIII
Conduct of Human Subjects Research in which the University has a significant financial interest

Preamble

It is CIRC's goal, and obligation under the Bayh-Dole Act, to enable translational research and the commercialization of University discoveries and intellectual property to meet human health needs, while maintaining research integrity related to conflicts of interest.

Human subjects research shares with all other research the risk of bias in the design, conduct, and publication of the research associated with FCOI. However, human subjects research is also often associated with at least some risk to the study subjects. In addition, human subject research is often designed to evaluate the safety and efficacy of pharmaceuticals or medical devices for use or implantation in human beings, so the consequence of bias may eventually pose significant risk to large numbers of human beings, the investigators, and the University. This risk makes human subjects research different from other research. CIRC's management of individual conflict of interest related to human subject research presumes that investigators may not participate in human subject research when they have a direct financial interest in the outcome of that research.

The approach of the CIRC and College of Medicine to human subject research in which the University or its senior officials has significant financial interest depends on:

- The extent of the potential risk to human subjects
- The nature and origin of the study
- The nature of the institutional financial interest, and its relationship to the proposed research

Policy

Human subject research posing a potential conflict of interest with financial interests of the University, its officers, or administrators, would be considered to be "presumptively prohibited"* from being conducted at the College of Medicine, depending on the following criteria:

Risk to human subjects

- Only studies involving more than minimal risk to human subjects, as determined by the IRB, will be presumed to be prohibited. Studies involving only minimal risk may be managed according to the College of Medicine practices for non-human studies

Nature and Origin of the Study

- Studies initiated and/or conducted within the College of Medicine will be presumed to be prohibited.
- Multi-center studies not initiated by University investigators and in which University facilities or investigators are involved as only one of several sites will not be presumed to be prohibited and may be managed according to the College of Medicine practices for multi-centered studies.

Nature of the Related Financial Interest of the University or University Officials which would cause a study to be presumed to be prohibited: (defined by PSU Policy AD 83)

- Intellectual property – Intellectual property owned by the University or a senior university official. Intellectual property, for this purpose, would include copyright, filed provisional patent, know how, or other tangible property. Inventions not meeting these criteria, even those for which an invention disclosure may have been filed, may be managed according to the College of Medicine practices for non-human studies.
- Equity Interests - Equity Interest, of the University, of any amount in a non-publicly traded company, as well as equity interest of greater than $100,000 in a publicly-traded company.
- Annual Income – Annual income of the University of greater than $100,000 from any publicly or non-publicly-traded company.
- Gift – Receipt by the University of annual gifts of greater than $1,000,000 from any company
- Senior University Official - Annual compensation, royalty income, or equity of greater than $25,000 of a senior University official and any of his/her immediate family members, or a fiduciary role in any company, if that official has any authority over the design, conduct, or reporting of a study, over any of its investigators, over the funding or resources available for the study.

Review Process

In order to proceed, studies which are “presumptively prohibited” under this procedure would need to be reviewed by the following groups or individuals to determine whether circumstances exist which would provide compelling evidence that the benefits of conducting the research at PSU would outweigh the risks, as minimized by a proposed management plan. A positive recommendation at each stage of the review would be needed to proceed to the next phase:

1. Conflict of Interest Review Committee, in consultation with the PI's Department Chair and a member of the community not employed by the University or the Milton S. Hershey Medical Center
2. Vice Dean for Research and Graduate Studies, College of Medicine
3. Legal Counsel, College of Medicine
4. Dean, College of Medicine
5. Institutional Conflict of Interest Committee (If the University financial interests reach the level of Institutional Conflict of Interest as established by Policy RA 21 – Institutional Financial Conflict of Interest)
6. University Conflict of Interest Official (If the University financial interests reach the level of Institutional Conflict of Interest as established by Policy RA 21 – Institutional Financial Conflict of Interest)

*As Defined in the 2008 AAMC Report "Protecting Patients, Preserving Integrity, Advancing Health: Accelerating the Implementing of COI Policies In Human Subjects Research:

Decisions about whether or not to pursue a particular human subjects research project in the presence of an institutional conflict of interest should be governed by a "rebuttable presumption" against doing the research at or under the auspices of the conflicted institution.

As defined in AAMC's 2002 Report:

The presumption may be rebutted when the circumstances are compelling and the committee has approved an effective conflict management plan. Whether the [institutional conflicts of interest] committee deems the circumstances to be compelling should depend in each case upon the nature
of the science, the nature of the interest, how closely the interest is related to the research, the degree of risk that the research poses to human subjects, and the degree to which the interest may be affected by the research. The committee should consider whether the institution is uniquely qualified, by virtue of its attributes (e.g., special facilities or equipment, unique patient population) and the experience and expertise of its investigators, to conduct the research and safeguard the welfare of the human subjects involved. Even when the institution is deemed uniquely qualified, conflicts associated with significant risk to human subjects should be avoided whenever possible and, if permitted, should be managed closely.

While there may be "compelling" circumstances under which this presumption can be overcome, the decision to allow the research to proceed should be made through a rigorous, codified and transparent institutional COI evaluation process.

Appendix IX
Retrospective Reviews, Mitigation Plans, and Related Reports

The College of Medicine will follow the requirements of the NIH Regulations in 45 CFR Part 50, Subpart F, summarized below, for all PHS funded investigators. At the discretion of the Committee, the same principles, though without the same reporting requirements, may be followed for other employees.

Whenever an Investigator does not disclose a previously-existing Significant Financial Interest before grant submission or within 30 days of discovery for a new SFI during an ongoing PHS grant; when the Institution fails to review a previously-existing Significant Financial Interest during an ongoing PHS-funded project; or when an investigator fails to comply with a management plan established for a PHS-funded project; the CIRC and Executive Committee shall, within sixty (60) days, review the Significant Financial Interest; determine whether it is related to the PHS-funded research, and determine whether a Financial Conflict of Interest exists. If so, the Institution must implement, on at least an interim basis, a management plan that shall specify the actions that have been, or will be, taken to manage such Financial Conflict of Interest going forward and the Office of Research Affairs will submit an FCOI report to the NIH.

In addition, a review Committee would be appointed by the Chair of the Department in which the research is conducted, with the approval of the Vice Dean for Research and Graduate Studies. If either of these were themselves involved in the mitigation, their place in the appointment process would be taken by the University official to whom they report.

The Review Committee would review the case and determine whether bias has actually occurred in the PHS-funded research. At least one-half of the members of this Committee should have sufficient technical knowledge in the area of the affected research to be able to complete a retrospective review of the Investigator's research activities and the PHS-funded research project to determine whether any PHS-funded research, or portion thereof, conducted during the time period of the noncompliance, was biased in the design, conduct, or reporting of such research. This Committee will have responsibility for determining how to conduct the retrospective review. The Committee must submit documentation of the retrospective review to the COI Program by the deadline set by the COI Office, which will allow the office to report to the funding agency within 120 days of the Institution's determination of noncompliance.

Only if bias is found during the retrospective review, the Office of Research Affairs (ORA) will update the previously submitted FCOI report to NIH, specifying any additional actions that will be taken to manage the Financial Conflict of Interest going forward. As part of this submission, ORA will provide a mitigation report to NIH that includes the key elements documented in the retrospective review and a description of the impact of the bias on the research project and the Institution's plan of action or actions taken to eliminate or mitigate the effects of the bias. Thereafter ORA will submit FCOI reports annually.

The information required for the mitigation report includes:

A. Project number;
B. Project title;
C. PD/PI or contact PD/PI if a multiple PD/PI model is used;
D. Name of the Investigator with the FCOI;
E. Name of the entity with which the Investigator has a financial conflict of interest
F. Reason(s) for the retrospective review;
G. Detailed methodology used for the retrospective review (e.g., methodology of the review process, composition of the review panel, documents reviewed, etc.);
H. Findings of the review; and
I. Conclusions of the review.

Appendix X
Procedures Related to Licensed Start-Up Companies with Technology Licensed by Penn State

The University encourages the commercialization of translational research to serve public health interests. The University further recognizes that efficient and effective means of commercializing University technology may be through start-up companies ("Licensed Start-up Company") that are founded by, or have a close relationship with, university faculty. A Licensed Start-up Company has the following characteristics: 1) it has a license or an option for a license to University IP; 2) it is not publicly traded; and 3) equity or an equity option is held by the University, or by a University employee or student, or by a member of the employee's or student's immediate family, or in trust for any employee's or student's immediate family. A Licensed Start-up does not include companies which license only technology released by the University to the researcher/inventor, or technology to which the University has no claim.

1. Use of University Space and Resources
   In general, University employees shall not be permitted to use University space, equipment or other resources for the benefit of a Licensed Start-up Company. Exceptions, however, can be granted with the approval of the Department Chair. In such an instance, a contractual agreement is required between the Licensed Start-up Company and the University for using University resources. Such an agreement shall include, but not be limited to, space to be used, equipment to be used, liability and approval to operate equipment, time period and associated costs. Any such agreement must be finalized with the approval of the Office of Research Affairs and Controller.
2. The University's relationship to the Licensed Start-up Company is defined by the Office of Technology Development, and typically includes the following:
   a. The University will negotiate a license with the Start-up company. These terms may have the effect of creating a conflict for the University, the faculty member or both. Terms may include:
      i. Payment of past and future patent expenses
      ii. A license fee
      iii. Milestone payments upon achievement of critical product development events and/or equity financing
      iv. Royalty payments on product sales
      v. Equity in the Start-up company
   b. The University will not hold a seat on the governing board of the Licensed Start-up Company but may request an observer seat.
   c. In the event the University holds equity in the Licensed Start-up Company, any shares shall be non-voting shares.

3. Faculty and staff who are equity shareholders in a Licensed Start-up Company have an obligation to give the University first option to decide whether it wishes to have research carried out under University auspices, and only if the University rejects the opportunity, is the faculty or staff member free to undertake the activity via the Licensed Start-up Company. This means that if a sponsor contacts a University researcher about conducting a research project, the researcher may not divert to an outside company work that would ordinarily be performed at the University under a sponsored research agreement with the sponsor.
4. University employees may provide consulting services to a Licensed Start-up company according to the terms of Penn State Policy HR 80 – “Private Consulting Practice”, so long as the activity does not conflict or interfere with the employee's University responsibilities or their Intellectual Property Agreement and no University resources are used for the consulting. Approval of the appropriate Department Chair should be obtained prior to initiating such services.
5. Students’ ability to publish their research results (thesis, dissertation, or other form of publication) and meet degree requirements must be preserved. This is an issue where students are employed by a Licensed Start-up company and are required to sign confidentiality agreements, but also where the student is performing research for the company and there is overlap between the student’s independent research and the company research. Hiring University students to conduct company research related to their discipline of study requires prior authorization if the faculty/researcher has a financial interest in the Licensed Start-up and the student is: under the mentorship of that faculty member (who serves as an advisor or as a member of their thesis or dissertation committee), paid under that faculty member’s grants, enrolled in a course taught by that faculty member, a member of their research group. Faculty/researchers should seek prior authorization to employ the student from the Office of the Vice Dean for Research and Graduate Studies.
6. Hiring University employees to work at the Licensed Start-up Company is permissible so long as the work at the company does not infringe on the employee's commitment to the University (Conflict of Commitment) or otherwise violate University policy or policies of a governmental or funding agency. If that employee is also involved in, or supervises, research conducted at the University in which the company has an interest in the outcome (research sponsored by the company or utilizing technology licensed to the company), then he/she has a financial interest in the University research and must submit a Conflict Disclosure form.
7. In negotiations between a start-up company and the University, a University employee or faculty member with a financial or management interest in a start-up

company shall not negotiate on behalf of the University as this would constitute an unmanageable conflict of interest. Whenever possible, the employee should negotiate on behalf of neither party. If the employee is the only person in a position to negotiate on behalf of a start-up company, it is recommended that the employee shall engage with legal counsel of their choosing to conduct or represent them in negotiations with the University.

Appendix XI
Conflict of Interest Monitoring

Overview

Conflict of Interest monitoring will occur as outlined in the Conflict of Interest management plan approved by the Conflict of Interest Review Committee. For complex conflicts or those involving the institution, a committee may be assigned this monitoring function.

Procedure

If a monitoring committee has been assigned, a monitoring meeting will be scheduled to include the Investigator, Monitoring Committee members, Conflict of Interest Specialist, and others as appropriate (Department Chair, Associate Dean for Research, etc.).

If the management plan does not require monitoring by committee, the Conflict of Interest Monitor and Specialist will customize the *COI Management Plan Monitoring Form* and send it to the Investigator via e-mail. The Investigator may choose to either complete and return the form or meet with the Monitor in person. After the form is returned, a follow-up meeting with the Investigator may be scheduled at the Monitor's discretion.

If the *COI Management Plan Monitoring Form* is not completed and returned by the Investigator, or if there is no response to the request to schedule a monitoring committee meeting, the following timeline will be put in place to assure completion of the monitoring within 60 days (can be altered due to extenuating circumstances, prolonged travel, illness, sabbatical, etc.):

- Two weeks after initial e-mail: Reminder E-mail
- Four weeks after initial e-mail: Phone Call and Reminder E-Mail
- Six weeks after initial e-mail: Final Phone Call, Final Reminder E-Mail, Contact to Department Chair
- If no response at eight weeks, contact to Office of Research Affairs and Human Subjects Protection Office as necessary