

Saint Clare's Hospital

Scope: Campus-Wide Policy

JCAHO Category: Medical Staff

Discipline: Medical Staff

Title: Conflict of Interest - Medical Staff (25409)

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Subject Matter Expert(s):

Chief Medical Officer

Director, Performance Improvement

Manager, Medical Staff Services

Summary: This policy is to safeguard the integrity and reputation of Ministry Saint Clare's Hospital of Weston, Inc. (the "Hospital") and its medical staff by fostering proper and unbiased conduct in all medical staff activities. In addition, this policy serves to educate medical staff members about situations that generate conflicts of interest, to provide means for the medical staff and the Hospital to disclose and manage conflicts of interest, to promote best interests of patients, their families, employees and other practitioners, and to describe situations that are prohibited.

Distribution:

POLICY

A conflict of interest arises when there is a divergence between an individual's private interests and his professional obligations to the Hospital, other medical staff members, patients and employees, such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal interests, financial or otherwise. A conflict of interest depends on the situation and not on the character of the individual.

Conflicts of interest are common and can arise due to the fact that physicians and other health care practitioners are in a position to exert substantial influence over many types of decisions in the health care arena, from choice of provider, supplier or other vendor to determinations about the quality of care rendered by peers. While it is appropriate for a medical staff member to participate in these activities, it is never appropriate for an individual's actions or decisions made in the course of his Hospital activities to be determined or influenced by considerations of personal financial gain or other personal interests. Such behavior calls into question the professional objectivity and ethics of the individual and also reflects negatively on the Hospital. The medical staff and its members must conduct their affairs so as to avoid or minimize conflicts of interest, and must respond appropriately when conflicts of interest arise.

Officers, directors, committee chairs, section chairs and others acting on behalf of the medical staff and the Hospital have a fiduciary duty to the Hospital, including the duties of loyalty, diligence and confidentiality. Despite the self-interests that practitioners inevitably have, those in positions of responsibility, in their fiduciary capacity, must act in utmost good faith on behalf of the Hospital. In accepting their positions, they undertake to give the medical staff and the Hospital the benefit of their care and best judgment to exercise the powers conferred solely in the interest of the medical staff and the Hospital and not for their own personal interest.

Conflicts of interest arise when practitioners in positions of responsibility have personal or outside financial, business or professional interests or responsibilities that conflict with their duties to the medical staff or the Hospital. The immediacy and seriousness of various conflicts of interest situations can differ. Of basic importance is the degree to which the interest would tend one toward bias or pre-disposition on an issue or otherwise compromise the interests of the medical staff or the Hospital.

A conditional, qualified or potential conflict of interest can arise when the outside interest is not substantial in size or does not relate significantly to any contemplated action of the medical staff or the Hospital. For example, a person might hold a minor financial interest in a company wishing to do business with the

Hospital. Disclosure is ordinarily sufficient to deal with this type of conflict of interest, provided that there is no expectation that one's duty of loyalty to the Hospital would be affected.

A direct conflict of interest arises when an individual holds a position of responsibility with the Hospital or its medical staff and also holds a material interest in the issue at hand. Direct conflicts of interest arise, for example, when an individual engages in a personal transaction with the Hospital or holds a material interest or position of responsibility in an organization involved in a specific transaction with the Hospital. Such a situation places the person in the impossible position of attempting to represent both the Hospital and one's personal interests or those of the other organization. The appropriate and necessary course of action in such cases is to disclose the conflict and recuse oneself, i.e., to remove oneself from the deliberations and the vote on the issue.

In rare circumstances, an individual may have such a serious, ongoing and irreconcilable conflict, where the relationship to an outside organization so seriously impedes one's ability to carry out the fiduciary responsibility to the Hospital, that resignation from the position with the Hospital or the conflicting entity is appropriate.

The following are representative, but not all-inclusive, of conflict of interest situations:

- Influence on purchases of equipment, instruments, materials or services for the Hospital from an entity in which the medical staff member or an immediate family member has a financial interest (each as defined below) in any entity with which the Hospital has or is negotiating a transaction or arrangement.
- Unauthorized disclosures of patient or the Hospital's information for personal gain.
- Influence upon the negotiation of contracts between the Hospital and private organizations with which the medical staff member or immediate family member has consulting or other significant relationships, or will receive favorable treatment as a result of such influence.
- Improper use of institutional resources for personal financial gain.
- Acceptance of compensation (as defined below) or free services from a vendor, service provider or contractor of the Hospital, when the medical staff member is in a position to determine or influence the Hospital's purchases from those persons.
- Influence on quality review activities for personal financial gain or for promotion of other personal interests.
- Influence on patient choice of provider or supplier for personal financial gain pursuant to a financial interest.

A medical staff member is considered to have a conflict of interest situation that disqualifies the individual from participation in deliberations or decisions to impose or recommend corrective action against or at the request of an immediate family member.

Dealing effectively with actual or potential conflicts of interest is a shared responsibility of the individual and the organization. All individuals who serve in positions of responsibility within the medical staff and the Hospital need not only to avoid conflicts of interest, but also to avoid the appearance of a conflict of interest. This includes officers, directors, Medical Management Team members, department chairs, committee chairs, section chairs and other elected or appointed leaders and staff. Decisions on behalf of the medical staff and the Hospital must be based solely on the interest of the Hospital and its medical staff. Decisions must not be influenced by desire for personal profit or other extraneous considerations.

Transactions with the Hospital – Whenever a potential transaction or agreement with the Hospital is presented for consideration at a meeting or other deliberation involving the participation of a practitioner, committee chair or section chair, such person shall disclose any position of responsibility or significant relationship to the person or organization involved in the potential transaction or agreement. This disclosure shall be made even if the position or relationship has otherwise been disclosed in the documents filed with the CMO. If the discussion includes consideration of confidential information that should not be disclosed to the outside person or organization, the individual involved shall be absent from the portion of the discussion involving the confidential information. When a motion is made for approval of a transaction or agreement with the Hospital, the appropriate course of action in such cases is to disclose the conflict and recuse oneself, (i.e., to remove) oneself from the deliberations and the vote on the issue.

Policy Decisions – When the medical staff or the Hospital considers the adoption of policy that relates directly to a specific and financial focus of business or professional activity engaged in by a practitioner, by

such individual's employer, or by an entity in which the individual has a substantial financial interest (other than less than a 1% interest in a publicly traded corporation), the individual shall disclose the nature of the relationship to the issue before speaking to the issue. When a motion is made for approval, the appropriate course of action in such cases is to disclose the conflict and recuse oneself, (i.e., to remove) oneself from the deliberations and the vote on the issue.

DEFINITIONS

Compensation – Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

Immediate Family Member – Immediate family member includes the spouse or domestic partner of an individual, dependent children, parents and siblings, whether the relationship is by blood, marriage or adoption.

Financial Interest – An individual has a financial interest if the person has, directly or indirectly, through business, investment or an immediate family member:

- an ownership or investment interest in any entity
- a compensation arrangement (including an employment arrangement) with any entity

PROCEDURE

Advance Disclosure of Certain Conflicts of Interest – Certain relationships have such an inherent potential for a conflict of interest that they should be disclosed before a practitioner participates in any medical staff affairs. Applicants for medical staff membership or clinical privileges will be required to disclose any financial interest or leadership position they hold with entities determined by the Hospital to be in competition with it. Additionally, medical staff members are required to disclose any newly acquired financial interest or leadership position with these entities to the CMO as soon as practicable, but no more than 30 days after the event.

Additional Required Disclosure – In addition to the advance disclosures required above, medical staff members are to disclose other relationships involving an actual or potential conflict of interest whenever the member is in a situation where he would be involved in making a decision involving a third party where the member's personal interests (financial or other) have a potential for influencing the member's input. Disclosure should be submitted in writing to the CMO at the earliest opportunity, but no more than 30 days after the potential conflict becomes known to the practitioner.

All medical staff members are required at the time of appointment and reappointment to review this policy and update their disclosure in compliance with this policy in accordance with the attached Statement of Compliance.

Response to Disclosure – The CMO shall review the situation and examine all facts thoroughly for apparent conflicts. If the CMO determines that a conflict exists or the potential for conflict is sufficiently high, the member will be required to recuse himself or herself from decisions or deliberations that involve the conflict. In those cases, the member may provide information to the decision-makers at their request, but will be excused from further participation in the decision-making process after having supplied the requested information. Exceptions shall be granted at the sole discretion of the Hospital. If the CMO determines that the Hospital would best be served by the granting of the requested exception, the CMO may do so in writing with justification for the granting and delineating of any conditions placed on the approval. If the CMO determines that no exception should be granted, that is a final determination and there is no appeal from that decision. If the CMO determines that there has been a violation of this policy, the CMO may meet with the medical staff member to agree upon appropriate resolution of the conflict and/or may institute corrective action under the medical staff bylaws.

Reporting – Suspected violations of this policy should be reported to the CMO. Such reports may be made confidentially, although the more information given, the easier it is to investigate the reports. Raising such concerns will not jeopardize anyone's employment or medical staff membership.

All violations of laws or regulations should be reported to the Chief Compliance Officer or the CMO. Violations will result in the taking of appropriate corrective action up to and including termination of medical staff membership. Corrective action will be taken in accordance with the medical staff bylaws.

Approved by: Medical Executive Committee
Date: 7/26/2011

Related Policies:

Review Date: One year from effective date

Key Words:

Sources:

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