

MANAGING CONFLICT OF INTEREST

1. **PURPOSE:** To establish policy and procedures for investigators to comply with applicable Department of Veterans Affairs (VA) and federal regulations regarding the management of conflict of interest in research at the VA Pacific Islands Health Care System (VAPIHCS), Honolulu, Hawaii.

a. **Background:** A conflict of interest occurs when any financial arrangement, situation or action affects or is perceived to exert inappropriate influence on the design, review, conduct, results or reporting of research activities or findings. Concerns related to conflicts of interest have increased as the relationships of investigators with private corporations, pharmaceutical companies, and outside institutions have become more complex. These concerns are based on the potential effects the conflicts may have on the real or perceived quality of the research and the treatment of research participants. The impact of the conflict may occur in any phase of the research from the development of the study design, to the consenting of research participants, and to the management of the study. The conflict may also bias review of proposals, analysis of data and dissemination of research results through publications and presentations. The perception that a conflict of interest exists may not affect the actual development, management and evaluation of the study but rather may negatively impact on the perceived validity of the study and the credibility of both the investigator and the institution.

2. **POLICY:** VA investigators must comply with all laws, regulations and policies of appropriate Federal agencies including VA, pertaining to conflict of interest in research including Title 5 Code of Federal Regulations (CFR) Part 2635 "Standards of Ethical Conduct for Employees of the Executive Branch, Basic Obligations of Public Service" and Conflict of Interest Statutes Title 18 United States Code (U.S.C.) 202-209 as amended.

3. **EFFECTIVE DATE:** September 4, 2004

4. **DEFINITIONS:**

a. **Conflict of Interest:** Any situation in which financial or personal obligations may compromise or present the appearance of compromising an individual's or group's professional judgment in conducting, reviewing, or reporting research.

b. **Financial Conflict or Perceived Conflict of Interest:** This occurs when any financial arrangement, situation or action affects or is perceived to exert inappropriate influence on the design, review, conduct, results or reporting of research activities or findings. Concerns related to conflicts of interest have increased as the relationships of investigators with private corporations, pharmaceutical companies, and outside institutions have become more complex. These concerns are based on the potential

effects the conflicts may have on the actual or perceived quality of the research and the treatment of research participants.

The main conflict of interest statute in the federal criminal code, 18 U.S.C. § 208, prohibits all VA employees (full-time, part-time, WOC, and IPA) from participating personally and substantially, as part of their official duties, in any particular matter, including research, that directly and predictably affects their own financial interests or any financial interests imputed to them. Financial interests that are imputed to a VA employee include the financial interests of a spouse; minor child; general partner; an organization in which the VA employee serves as an officer, director, trustee, general partner, or employee; or an organization with which the VA employee is negotiating or has an arrangement for prospective employment. Imputed financial interests are treated as if they were the VA employee's own financial interests for purposes of this prohibition.

c. Disclosure: The formal written process of documenting all aspects relating to the development of potential intellectual property for the purpose of determining and assigning ownership. It may also mean a complete listing of all financial and employment relationships between a Principal Investigator or his/her immediate family and (1) the sponsor of a project or (2) a profit or not for profit entity with a potential financial interest in the outcome or conduct of the research.

d. Equity: The money value of a property or of an interest in a property in excess of claims or liens against it.

e. Immediate Family Member(s): The investigator's spouse and dependent children.

f. Institutional Conflict of Interest: This may occur when the institution, or any of its senior management or an affiliate foundation or organization, has an external relationship or financial interest in a company or organization that itself has a financial interest in a VA investigator's research project. For a VA facility, this might occur when patents or royalties are involved because the VA facility retains a portion of the earned income.

g. Intellectual Property (Invention): Any art, machine, manufacture, design, or composition of matter, or any variety of plant, which is or may be patentable under the patent laws of the United States.

h. Inventor: The individual responsible for the conception or reduction to practice of a device or process.

i. Investigator: The individual who is responsible and directly involved in some or all aspects of the research study, including the study design, conduct, analysis and interpretation of data, resulting manuscripts and reporting of the research. In the

context of this policy, the term "investigator" includes the Principal Investigator (PI) (an individual who actually conducts an investigation, i.e., under whose immediate direction research is conducted or, in the event of an investigation conducted by a team of individuals, the responsible leader of that team.), Co-PI, Co-investigators and Investigators. An investigator may be employed by the VA full-time or part-time, have a without compensation (WOC) appointment, or be assigned through an Intergovernmental Personnel Act (IPA) Agreement. For purposes of determining financial interests, the Investigator's interests include those of his/her immediate family.

j. Patent: An official written document securing to an inventor for a term of years the exclusive right to make, use, or sell an invention.

k. Re-disclosure: Re-disclosure is the formal written process of documenting all aspects relating to any improvement of a previously disclosed invention for the purpose of issuing a new determination on the improved invention.

l. Royalty: Compensation for an invention.

m. Significant Financial Interest: Anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

(1) Payments including salary, consulting fees, royalty or licensing payments from intellectual property, honoraria and/or gifts from an entity (including university) whose financial interests could be affected by this study.

(2) Equity interest worth more than \$15,000 or more than 5% of the business entity as determined by reference to its publicly listed price (excluding mutual funds).

(3) Any equity interest if the value cannot be determined by reference to publicly listed prices (e.g., start-up companies).

(4) A position as director, officer, partner, trustee, employee, or any other position of management

(5) Patent rights or royalties from such rights whose value may be affected by the outcome of the research.

(6) Compensation related to the research such that the amount might be affected by the outcome of the research.

n. Significant Equity Interest in the Sponsor of a Covered Study: Any ownership interest, stock options, or other financial interest whose value cannot be readily determined through reference to public prices (generally, interests in a non-publicly traded corporation), or any equity interest in a publicly traded corporation that exceeds

\$50,000 during the time the clinical investigator is carrying out the study and for 1 year following completion of the study.

o. Significant Payments of Other Sorts: Payments made by the sponsor of a covered study to the investigator or the institution to support activities of the investigator that have a monetary value of more than \$25,000, exclusive of the costs of conducting the clinical study or other clinical studies, (e.g., a grant to fund ongoing research, compensation in the form of equipment or retainers for ongoing consultation or honoraria) during the time the clinical investigator is carrying out the study and for 1 year following the completion of the study.

p. Proprietary Interest in the Tested Product: Property or other financial interest in the product including, but not limited to, a patent, trademark, copyright or licensing agreement

q. "Other" conflicts of interest include:

- (1) Duties of loyalty to peers;
- (2) Appointments;
- (3) Promotions;
- (4) Tenure;
- (5) Grants;
- (6) Supervisory relationships;
- (7) Publications as they relate to the above.

Significant financial interest in research **does not include** the following:

- (8) Interests of any amount in publicly traded, diversified mutual funds;
- (9) Stock in a publicly-traded company that (when valued in reference to current public prices) meets the de minimis criteria, an interest that does not exceed \$15,000 in value and does not represent more than 5% ownership interest in any single entity). This includes aggregated interests of the PI, spouse and dependent children when determining whether the threshold amount has been reached.
- (10) Stock options in a publicly traded company that (when valued using accepted valuation methods) meets the de minimis criteria, an interest that does not exceed \$15,000 in value and does not represent more than 5% ownership interest in any single entity). This includes aggregated interests of the PI, spouse and dependent children when determining whether the threshold amount has been reached.

(11) Payments to the institution, or via the institution to the individual, that are directly related to reasonable costs incurred in the conduct of research as specified in the research agreement(s) between the sponsor and the institution.

(12) Salary, royalties, and other payments for services from the institution.

(13) Any ownership interests in the institution if the institution is an applicant under the SBIR program.

(14) Income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities.

(15) Income from service on advisory committees or review panels for public or non-profit entities. Salary, royalties, or other payments when aggregated for the Investigator and the Investigator's spouse and dependent children over the next 12 months, are not expected to exceed \$10,000.

5. **PROCEDURES:**

a. Conflict of Interest Statement Processing

(1) The Investigator will submit a Conflict of Interest Statement which will be included in the initial review submission to the IRB for human use studies or RDC for Exempt or non-human use studies. The COI Statement is comprised of a "Research Financial Conflict of Interest Statement" coversheet; OGE Form 450 "Research Financial Conflict of Interest Statement"; and VAPIHCS Supplemental Conflict of Interest Statement. The Investigator will report any conflict of interest changes (for him/herself or team members) to the IRB or RDC as they occur by completing a new Conflict of Interest Statement. If there are no changes to the Conflict of Interest Statement since last review, the PI will report this in the Continuing Review Application or Annual Update review conducted by the RDC.

(2) All COI Statements will be reviewed, to the best of his/her knowledge, for completeness and accuracy by the ACOS for Research & Development prior to review by the COIA and IRB or RDC and Director. In the event that the ACOS for Research & Development initiates the COI Statement as an investigator or research team member, the Chief of Staff, or his/her designee, will perform the review. The signed COI Statement by the ACOS for Research & Development will then be forwarded to the COIA. If any "yes" box is checked in section 1, the Research Office of General Counsel will be consulted by the RCC unless an OGC precedent has already been set for the same situation. The OGC/Ethics Work Group opinion will be made available to the COIA.

(3) The COIA will review the COI Statement and determine if there are any COI issues identified and will provide his/her recommendation and/or management plan to the IRB or RDC for consideration in the review process.

(4) The IRB or RDC will review the COI Statement and COIA (plus OGC opinion if applicable) recommendation and/or management plan in its review to determine whether any related conflicting interest is one that would reasonably appear to be directly and significantly affected by the proposed project. A direct impact occurs when the project results would be directly relevant to the development, manufacturing, or improvement of the products or services of an organization in which the Investigator has a financial interest, or when the organization is a proposed subcontractor or participant in the project, or when there exists a relationship between the Sponsor of a project and the Investigator outside of the Sponsored Project agreement that has the potential to affect the performance of the project. The review of a COI disclosure will include but not be limited to the following questions:

- Does the research involve financial relationship that could create potential or actual conflicts of Interest:

Such as:

- Ownership interest, stock options, or other financial interest related to the research whose value might be affected by the outcome of the research.

- Compensation related to the research such that the amount might be affected by the outcome of the research.

- Propriety interests related to the research including, but not limited to, a patent, trade mark, copy right or licensing agreement.

- How is the research supported or financed?
- Where and by whom was the study designed?
- Where and by whom will the resulting data be analyzed?
- What interests are created by the financial relationships involved in the situation?

- Do individuals or institutions receive any compensation that may be affected by the study outcome?

- Do individuals or institutions involved in the research:
 - Have any proprietary interest in the product, including patents, trademarks, copyrights, or licensing agreements?
 - Have an equity interest in the research sponsor and, if so, is the sponsor a publicly held company or non-publicly held company?
 - Receive significant payments of other sort? (e.g., grants, compensation in the form of equipment, retainers for ongoing consultation, or honoraria).

- Receive payment per participant or incentive payments?

- Given the financial relationships involved, is the institution an appropriate site for the research?
- How should financial relationships that potentially create a conflict of interest be managed?
- Would the rights and welfare of human participants be better protected by any or a combination of the following:
 - Reduction of the financial interest?
 - Disclosure of the financial interest to prospective participants?
 - Separation of responsibilities for financial decisions and research decisions?
 - Additional oversight or monitoring of the research?
 - An independent data and safety monitoring committee or similar monitoring body?
 - Modification of Role(s) of particular research staff or changes in location for certain research activities, e.g., a change of the person who seeks consent, or a change of investigator?

(5) The IRB or RDC will consider the impact of the conflict of interest on the research participant and based on all information provided to the committee, the committee will render a determination and course of action. The committee's action, which may include a COI management plan, will be forwarded to the Director and communicated to the PI.

(6) The Director will review the findings of any identified COI in research rendered by the COIA, IRB and RDC. The Director may add to the stipulations or changes to the proposal, but may not disallow any of the IRB's stipulations or changes regarding the COI in research. Any determination and/or action rendered by the Director will be communicated to the IRB or RDC and PI.

Note: Final determination of the presence of a member's significant conflict of interest in research and a plan for its management resides with the IRB for human use studies that are not exempt from IRB review. The VA Research Regional OGC Counsel is available for consultation.

(7) After being notified by the ACOS for Research, the Research Committee Coordinator is responsible for making any institutional financial interest, to include an invention owned by the VA, known to the IRB at the time of initial, continuing or amendment reviews.

b. Managing Conflict of Interest:

(1) Should the COIA conclude that a project might have a direct and significant impact on financial interest and that the financial arrangements could affect the design, conduct or reporting of the project, the COIA will make recommendations to the IRB or RDC on how to manage the potential conflict of interest. Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

- (a) Public disclosure of significant financial interests;
- (b) Disclosure of the financial interest to research participants, potential participants, journal editors and presentations;
- (c) Monitoring of research by independent reviewers;
- (d) Modification of the research plan and/or the informed consent documents;
- (e) Disqualification from participation in all or a portion of the research;
- (f) Divestiture of significant financial interests; or
- (g) Severance of relationships that create actual or potential conflicts;
- (h) Not conducting proposed research each at the institution, or halting it if it has commenced;
- (i) Reducing, eliminating, or otherwise modifying the financial (equity or royalty) interests or relationships involved;
- (j) Increasing the segregation between the decision-making regarding the financial and the research activities;
- (k) Requiring an independent data and safety monitoring committee or similar monitoring body;
- (l) Modifying the role(s) of particular research staff or changes in location for certain research activities, e.g., a change of the person who seeks consent, or a change in an investigator; or
- (m) Establishing a research monitoring process, so that the research can be closely scrutinized to ensure that potential conflicts do not undermine the integrity of the work and of the VA.
- (n) Education of research personnel.

(2) The COIA will recommend whether the project should be approved and recommend a plan for the management of any conflict to the IRB or RDC. Upon IRB or RDC approval of a management plan, it will be sent to the VAPIHCS Director for concurrence.

(3) An IRB or RDC member with an identified conflict of interest may be present during project review discussion to answer questions. However, he/she must recuse himself/herself from final deliberations, quorum counts, and votes on the relevant protocol and depart the room.

(4) If conflicts of interest are identified after a research protocol has been approved or initiated, the COIA will identify the impact of the conflict on the protocol and the research participants, and corrective actions to be taken to decrease the impact. Corrective actions may include:

- (a) Modifying the protocol and the consent;
- (b) Re-consenting participants or removing the investigator from a role in participant selection;
- (c) Supervision of the protocol by independent reviewers; and/or
- (d) Requiring that the conflicts of interest must be disclosed in all publications or presentation resulting from the research.

(5) When a significant financial or other conflict of interest exists and is not eliminated by the process described above, the consent form must contain a discussion of the financial or other arrangement and how the conflict of interest is being managed to include additional protections that have been put in place.

c. Additional Procedures for FDA Studies: FDA may consider clinical studies inadequate and the data inadequate if, among other things, appropriate steps have not been taken in the design, conduct, reporting and analysis of the studies to minimize bias. One potential source of bias in clinical studies is a financial interest of the clinical investigator in the outcome of the study because of the way payment is arranged (e.g., a royalty) or because the investigator has a proprietary interest in the product (e.g., a patent) or because the investigator has an equity interest in the sponsor of the covered study.

(1) Any clinical investigator for whom the applicant does not submit the certification Form FDA 3454, the applicant shall submit a completed Form FDA 3455 disclosing completely and accurately the following:

- Any financial arrangement entered into between the sponsor of the covered study and the clinical investigator involved in the conduct of a covered clinical

trial, whereby the value of the compensation to the clinical investigator for conducting the study could be influenced by the outcome of the study.

- Any significant payments of other sorts from the sponsor of the covered study, such as a grant to fund ongoing research, compensation in the form of equipment, retainer for ongoing consultation, or honoraria.
- Any proprietary interest in the tested product held by any clinical investigator involved in a study.
- Any significant equity interest in the sponsor of the covered study held by any clinical investigator involved in any clinical study.
- Any steps taken to minimize the potential for bias resulting from any of the disclosed arrangements, interests, or payments.

(2) The clinical investigator shall provide to the sponsor of the covered study sufficient accurate financial information to allow the sponsor to submit complete and accurate certification or disclosure statements as required. The investigator shall promptly update this information if any relevant changes occur in the course of the investigation or for 1 year following completion of the study.

(3) The clinical investigator shall provide the sponsor with sufficient accurate financial information to allow an applicant to submit complete and accurate certification or disclosure statement required. The clinical investigator shall promptly update this information if any relevant changes occur during the course of the investigation and for 1 year following the completion of the study.

(4) A clinical investigator shall disclose to the sponsor sufficient accurate financial information to allow the applicant to submit complete and accurate certification or disclosure statements as required. The investigator shall promptly update this information if any relevant changes occur during the course of the investigation and for 1 year following completion of the study.

d. Additional Procedures for Other COI: The IRB or RDC will review protocols to assure that, when applicable, the arrangements listed below (*a thru d*) are in place in situations where a VA researcher has an intellectual property interest. The IRB or RDC also have a responsibility to review the potential for institutional conflict of interest, including intellectual property agreements, and to evaluate the adequacy of the COI management plan to protect human participants.

(1) Invention/Intellectual Property Disclosure: In the case of an invention (to include a new use or improvement of an invention) or believed invention, the inventor must complete a VA outline for reporting and certification forms. These documents are available at the Technology Transfer Program (TTP) website at http://www1.va.gov/resdev/programs/tech_transfer/default.cfm

The inventor's supervisor must review the outline for reporting of inventions and certification forms. The file is then submitted to the Director, Technology Transfer Program (TTP), via the Research and Development (R&D) Office, for review and approval. The TTP recommends one of three outcomes. The Office of General Counsel issues the final agency decision. The possible outcomes are as follows:

(a) The government maintains right, title, and interest in, and to, any invention of a government employee;

(b) The government is entitled to a royalty free license with ownership remaining with the inventor; or

(c) The government claims no interest or license; i.e., all rights remain with the inventor.

Although rare within VA, when an application for a patent or royalty is approved, the Office of Research and Development (ORD) notifies the Associate Chief of Staff for Research (ACOS-R) at the facility. Upon notification, the ACOS-R sends the reports of patent and royalties to the Research Committee Coordinator (RCC). The RCC is responsible for making this institutional financial interest known to the IRB at the time of initial, continuing or amendment reviews. As with investigator conflict of interest, the IRB has the final authority to determine whether research is approvable for which there is institutional financial interest.

(2) Cooperative Technology Administration Agreement (CTAA): Since many VA researchers hold appointments with both VA and a university, VA recognizes that a university may also have an interest in an invention made at a VA facility, resulting in joint ownership. In response to this situation, TTP developed a CTAA. This legal agreement outlines relevant definitions, terms, and conditions for handling jointly owned intellectual property (IP) between both organizations.

(3) Cooperative Research and Development Agreement (CRADA): A CRADA is an agreement between the VA facility and one or more non-Federal parties (such as an academic affiliate) under which VA medical center Directors may accept, retain, and use funds, personnel, services, facilities, equipment, or other resources from collaborating parties in order to conduct R&D in a particular project. This may include the future development of a VA-owned invention and may be entered into in cooperation with a license agreement. CRADAs are negotiated by the VA medical center and regional counsel attorneys. Following review and approval by the Office of General Counsel (OGC), they are returned to the medical center for execution.

(4) Royalties: Royalty income to the VA will be accepted, monitored, and distributed by the TTP. All royalties go to VA Central Office. Centralized compilation of royalty income data is required for evaluating and reporting on the program's effectiveness and to ensure compliance with applicable laws; e.g., current Federal

royalty income cap of \$150,000 per year. Note: Royalties paid to employees from non-Federal sources, such as universities are not subject to this ceiling.

If the VA facility retains a significant financial interest, or if an institutional official with direct responsibility for the HRPP holds a significant financial interest in the invention, then the IRB and RDC must assess the potential conflict of interest and weigh the magnitude of any risk to human participants. When reviewing potential institutional conflict of interest, the IRB and RDC will assume an inclination against the conduct of human participants research at, or under the auspices, of the institution where a COI appears to exist. However, the assumption may be overturned by the IRB when the circumstances are compelling and the IRB has approved an effective conflict management plan.

A key aspect in decision-making is to analyze when it would be appropriate and in the public interest to accept and manage a COI, rather than require that the COI be eliminated. In some cases, the benefits of conducting a proposed research activity at the institution will be potentially high, and the risks will be low. In other cases, the scientific advantages of conducting the research may be speculative and the risks may be great. In these latter instances, the conflict should be avoided by disapproving the research application.

Each case should be evaluated based upon the following:

- 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 participants; and
- The degree to which the interest may be affected by the research.

The IRB and RDC will 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 participants involved.

e. **Appeal Process for COI Decisions:** An investigator may appeal the decision of the IRB or RDC within 30 days of receiving notification of the action. Appeals will be submitted in writing to the IRB or RDC through the RCC. The appeal will then be reviewed by the full IRB at a convened meeting. The committee's findings will be reported to the Director as its final recommendation. This determination (including any management plan) will be reported to the appellant and PI.

(1) Criteria for Appeal

An investigator may appeal the IRB's or RDC's decision. The appeal should be accompanied by a cover letter that explains the basis of the appeal. The investigator may submit clarification modifications, additional references, or other material to support his/her case. Principal Investigators, study coordinators and/or sponsor representatives may attend, or be requested to attend an IRB meeting. Investigators and coordinators are encouraged to contact RDC staff and IRB members to discuss concerns without compromising the integrity of the process.

(2) To Whom Appeal is Addressed

VA Pacific Islands Health Care System
Attn: Chairperson, Institutional Review Board or R&D Committee
C/O Research Committee Coordinator
Research & Development Office (151)
459 Patterson Road, E-Wing, Room. 4A-101
Honolulu HI 96819

f. Failure to Comply with Conflict of Interest Policy:

(1) If an investigator fails to comply with the conflict of interest policy or with corrective actions determined by the IRB, RDC, or Director, the IRB or RDC will report the failure to comply to the Director. The funding agency will also be informed. Any failure to comply with conflict of interest policy and/or corrective actions pertaining to a specific conflict of interest may result in other conditions or restrictions, which would be consistent with applicable policies, regulations, and laws. These conditions or restrictions may include:

(a) Termination of the research protocol;

(b) Removal of the investigator from the research protocol team; or

(c) Revocation of the privilege to conduct research. This sanction may include a prohibition on submitting proposals to the IRB and the RDC, and suspension of the investigator's privilege to conduct research within VA.

(2) The investigator may also be sanctioned by the Public Health Service, the Food and Drug Administration, or other applicable entities depending on the seriousness of the non-compliance and the determination of the research sponsor.

6. **RESPONSIBILITIES:**

a. **Investigator:**

(1) When submitting a research proposal to the VAPIHCS for review by the IRB or RDC, it must contain a Conflict of Interest Statement (Attachment A) identifying conflicts of interest from Principal Investigators, Co-Principal Investigators, Investigators, Co-Investigators, or Collaborators who devote 5% or more effort on the research study to be conducted at the VAPIHCS. This requirement applies to all research activities conducted completely or partially at the VAPIHCS or conducted in VA approved off-site locations and/or facilities, and/or conducted by VA investigators while on official VA duty time, whether funded by VA or by other sources, or unfunded. This requirement does not apply to Principal Investigators, Co-Principal Investigators, Investigators, Co-Investigator, or Collaborators who are NOT under the jurisdiction of the VAPIHCS AND who do not participate in research at the VAPIHCS NOR have access to research participants Protected Health Information (PHI). Further, it applies to all proposals submitted to the VAPIHCS for review by the IRB or RDC, and to proposals submitted to the Office of Research and Development for scientific merit review and funding consideration.

Note: Conflicts of interest involving an investigator's spouse and dependent children that would reasonably appear to affect the research must also be reported.

(2) Will immediately submit a Conflict of Interest Statement to the Research Committee Coordinator (RCC) when new conflicts of interest are identified or current ones cease to exist.

(3) When submitting a protocol for continuing review for which there has been no change in the Conflict of Interest Statement, the Principal Investigator will report that there is no change to the Conflict of Interest by documenting in the Continuing Review Application the most recent Conflict of Interest Statement(s) for that protocol remains current and correct.

(4) Must comply with VHA policies and procedures regarding conflict of interest in research and with the final decision of the IRB or RDC in managing the conflict of interest.

(5) An investigator may appeal the approved decision and/or COI management plan by submitting their appeal to the R&D Office for review by the IRB or RDC.

Note: Any findings relating to conflicts of interest in research, to include any management plan, will be reported to the investigator.

b. **Research Committee Coordinator (RCC):** The RCC will maintain records of all COI Statements and actions taken by the VAPIHCS with respect to each conflicting interest in research for the period that the protocol records are maintained.

Any action, to include a COI management plan, set forth by the IRB, RDC and/or Director will be provided in writing to the PI through the RCC.

c. Conflict of Interest Administrator (COIA): is responsible for reviewing, identifying, and evaluating potential conflicts of interest in research. The COIA makes recommendations for appropriate changes relative to a potential conflict of interest to the IRB and RDC to minimize conflicts and to manage associated risks as they might affect the safety of research participants. The COIA will:

(1) Review and evaluate the COI Statement completed by the Principal Investigator, Co- Principal Investigator, Investigator, Co-Investigator, or Collaborator with 5% or more effort devoted to the relevant protocol at the VAPIHCS;

(2) Determine whether there is an actual or potential conflict of interest that could impact the proposed or current research project. The conflict of interest may affect the design, conduct or reporting of the research;

(3) Determine if conflicts are real (i.e. would change behavior and require a management strategy) or apparent (i.e. would not change behavior but may still need to be disclosed and/or managed in order to preserve the public trust);

(4) Determine if the conflict could result in coercion and undue influence;

(5) Determine if potential for harm to participants exists that may result in the need for additional protections to minimize risk;

(6) Determine what information should be disclosed in the informed consent form as part of management strategy;

(7) Determine what conditions or restrictions, if any, should be imposed to manage, reduce or eliminate the conflict.

(8) Report findings and identify steps to manage the conflict of interest in research to the IRB or RDC. The COIA will render a determination and/or recommend a COI management plan to the IRB or RDC by the time of relevant protocol review by these committees.

d. Institutional Review Board:

(1) Is responsible for identifying, reviewing, and requiring appropriate changes in protocols affected by a conflict of interest in human use research that is not Exempt from IRB review. The IRB may also determine that the research protocol should not be conducted at the VAPIHCS. In making their determination, the IRB may consider the actions and recommendations of the COIA and the information provided in the investigator's Conflict of Interest Statement.

(a) In reviewing protocols, the IRB should be aware of the source of funding and funding arrangements for each protocol. The IRB must determine if the protocol addresses any conflict of interest in research and the management of the conflict of interest. The IRB may determine that the investigator must disclose to the research participant any financial arrangements with the research sponsor including any incentives to recruit research participants. This disclosure may take the form of a discussion in the consent regarding the source of funding, the payment arrangements for investigators, the nature of the conflict of interest, how the conflict is being managed, and additional protections that have been put in place. These additional protections may include a special measure to modify the consent process, having a non-biased third party recruit research participants and obtain the consent, or having the investigator recuse him/herself from decision making that may influence the outcome or reporting of the research results.

(b) In reviewing protocols, the IRB will consider the impact of the conflict of interest on the research participants as follows:

- Risks to participants;
- Anticipated benefits, if any to participants;
- Scientific or scholarly integrity of the research;
- Selection of participants;
- Participants willingness to participate in the research after disclosure of the conflict;
- Possibility of coercion or undue influence during the consent process;
- Information provided to the participant;
- Provisions for monitoring the data collected to provide for the safety of the participants;
- Provisions to protect the privacy interests of participants and to maintain the confidentiality of the identifiable data;
- Credibility of the Human Research Protection Program;
- Evaluation criteria to not vary by funding a regulatory oversight; and

The IRB will also consider the impact on the research and research results.

(c) Will determine if actions, in addition to those recommended by the COIA, should be taken to manage, reduce or eliminate the conflict of interest in research.

(d) Reviews all final decisions for relevance to human participant protection. If the IRB should find that the COI management plan poses an unacceptable risk to

participants, it has the final authority to decide whether the conflicting interest and its management, if any, will allow the research to be approved or to continue. Final determination of the presence of a member's significant conflict of interest in research and a plan for its management will reside with the IRB.

(e) Any action, to include a COI management plan, set forth by the IRB will be communicated to the RDC, Director and PI.

(f) The IRB must ensure that steps to manage, reduce or eliminate potential or real conflicts of interest in research (financial, role (investigator/patient relationships), and institutional) have been taken.

(g) The IRB will establish a process to allow the investigator to appeal a decision restricting the conduct of research and requiring specific steps to manage, reduce or eliminate the conflict of interest.

(h) The IRB will establish criteria for evaluating an investigator's appeal. Criteria may include the nature of the research, the unique experience or qualifications required to conduct the research, the number of other investigators that may possess these qualifications, the nature and magnitude of the conflict of interest, as well as any substantial effect of the research on the conflict of interest such as increasing financial gains for the investigator. In addition, the magnitude of the risk to the human research participant posed by the conflict of interest must be considered.

e. Research and Development Committee (RDC):

(1) Is responsible for identifying, reviewing, and requiring appropriate changes in protocols affected by a conflict of interest in research involving Exempt or non-human use studies. The RDC may also determine that the research protocol should not be conducted at the VAPIHCS. In making their determination, the RDC may consider the actions and recommendations of the COIA and the information provided in the investigator's Conflict of Interest Statement.

(2) In reviewing protocols, the RDC should be aware of the source of funding and funding arrangements for each protocol. The RDC must determine if the protocol addresses any conflict of interest in research and the management of the conflict of interest.

(3) The RDC considers the nature of the research, the magnitude of the conflicting interest and the degree to which the conflict is related to the research, the extent to which the interest could directly and substantially affect the research, and if there is potential for harm to research participants or for coercion or undue influence.

(4) The RDC will determine if actions, in addition to those recommended by the COIA, should be taken to manage, reduce or eliminate the conflict of interest in research.

(5) Any action, to include a COI management plan, set forth by the RDC will be Communicated Director and PI.

f. Director

(1) Is the Institutional Official responsible for the Research and Development Program at the VAPIHCS and as such, represents the VAPIHCS in issues related to conflicts of interest in research and administers the facility's program related to financial conflict of interest in research.

(2) May appoint another staff member to administer the day-to-day activities related to the conflict of interest in research program. At the VAPIHCS, the Conflict of Interest (COI) Administrator is the Chief, Finance Resource Management Service.

(3) Will ensure compliance with all VA, VAPIHCS and federal policies related to conflict of interest in research through audits or other mechanisms.

(4) Will ensure the dissemination of this policy, through the R&D Office, to all Principal Investigators to ensure familiarity with this policy.

(5) Will review the findings of the COIA, IRB and RDC regarding conflicts of interest in research identified. The Director may add to the stipulations or requirements identified, but may not lessen them. Any determination and/or action by the Director will be communicated to the IRB or RDC and PI.

Note: Final determination of the presence of a member's significant conflict of interest in research and a plan for its management will reside with the IRB or RDC, depending upon which committee reviews it.

7. REFERENCES:

- a. 21 CFR 54, "Financial Disclosure by Clinical Investigators."
- b. 42 CFR 50 Subpart F, "Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding Is Sought."
- c. 45 CFR 94, "Responsible Prospective Contractors."
- d. Federal Register, Vol 69, No 92, Page 26393, May 12, 2004, "Financial Relationships and Interests in Research involving Human Subjects: Guidance for Human Subject Protection."
- e. VA National Headquarters Bioethics Committee Report, "Professional Conflicts of Interest for VHA Clinicians," September 1997.

f. Association of American Medical Colleges, "Protecting Subjects, Preserving Trust, Promoting Progress", December 2001.

g. VHA Handbook 1200.5, "Requirements for the Protection of Human Subjects in Research."

h. VHA Handbook 1200.18, "Intellectual Property."

i. Association for the Accreditation of Human Research Protection Programs Standards.

j. VHA Handbook 1200.01, "Research and Development (R&D) Committee.

8. RECISSION: FPM 151-15-008, Managing Conflict of Interest, dated, January 27, 2015.

9. ATTACHMENTS (LINKs to):

a. Link: OGE form 450 [Research Financial Conflict of Interest Statement]

b. Link: VAPIHCS Supplemental Conflict of Interest Statement

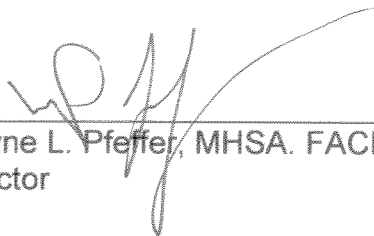
10. REVIEW DATES: May 2016, 2017, 2018, and 2019

11. REISSUE DATE: May 2020

12. FOLLOW-UP RESPONSIBILITY: Associate Chief of Staff for Research & Development



G. Webster Ross, MD
Associate Chief of Staff for Research



Wayne L. Pfeffer, MHSA. FACHE
Director

MAY 27 2015

{Date Signed}

DISTRIBUTION: A/electronic

