

CHARITY CARE HOSPITAL

ANNUAL CONFLICT OF INTEREST AND DISCLOSURE STATEMENT FOR BOARD OF TRUSTEES, OFFICERS AND KEY EMPLOYEES

1. Are you an independent voting member of the Board? ____ Yes ____ No
(see Schedule "B") If No, please explain _____.

The Hospital is required to disclose the number of independent voting members on the IRS Form 990. A member of the Board of Trustees is considered independent only if all three of the following circumstances apply at all times during the calendar year:

- (i) You are not compensated as an officer or other employee of the Hospital or of a **related organization** (*list your related organizations here see definition of Related Organization below and definition of Control in glossary http://www.irs.gov/pub/irs-tege/glossary_instructions.pdf*) except if you have taken a bona fide vow of poverty and receive non-taxable compensation as an agent of a religious order or you belong to a religious order that receives sponsorships or payments from the Hospital that does not include taxable income to the member; and
- (ii) You did not receive total compensation or other payments exceeding \$10,000 as an independent contractor other than reimbursement of expenses under an accountable plan or reasonable compensation for services provided in your capacity as a member of the Board of Trustees; and
- (iii) Neither you nor any family member was involved in an "excess benefit transaction" (transactions entered into with Hospital for less than fair market value) required to be reported on Schedule "L" of Form 990 or were a recipient of a loan from the Hospital which was outstanding at the end of the organizations tax year.

*[this section can be deleted from statement if you specify your related organizations above. **Related organizations** is an organization that stands in one or more of the following relationships to the Hospital:*

- (i) Parent – an organization that controls the Hospital;
- (ii) A subsidiary – an organization controlled by the Hospital;
- (iii) Brother/Sister – an organization controlled by the same person or persons that control the filing organization; and
- (iv) Supporting/supported – an organization that is a supporting organization of the Hospital within the meaning of 509(a)(3) or a supported organization if the filing organization is a supporting organization.]

2. Do you have a family relationship with any other officer, trustee or key employee (see list attached at Schedule "A")? ___ Yes ___ No. If Yes, please identify the person(s) with whom you have a family relationship _____.

On Schedule O to Form 990, the identity of the individual along with "Family Relationship" will be stated.

Your **family** members include your spouse, ancestors, brothers, sisters, children, grandchildren, great-grandchildren and the spouses of your brothers, sisters, children, grandchildren and great-grandchildren.

3. Do you have a business relationship with any other officer, trustee, or key employee (see list of officers, trustees and key employees attached at Schedule "A")? ___ Yes ___ No. If Yes, please identify the person(s) with whom you have a Business Relationship _____.

On Schedule O to Form 990, the identity of the individual along with "Business Relationship" will be stated.

Business relationships between two persons include any of the following:

- (i) One person is employed by the other in a sole proprietorship or by an organization with which the other is associated as a director, officer, key employee or greater than 35% owner;
- (ii) One person is transacting business with the other, other than in the ordinary course of either parties' business on the same terms as are generally offered to the public, directly or indirectly in one or more contracts of sale, lease, license, loan, performance of services or other transactions involving transfers of cash or property valued in excess of \$10,000 in the aggregate during the organizations tax year; and
- (iii) Persons are each a director, trustee, officer or greater than 10% owner in the same business or investment entity.

4. What is your occupation? _____

5. State your business or investment holdings (non-publicly traded) (e.g. your own company that does business with the Hospital or own real estate that leases space to the Hospital). _____

6. I acknowledge that I have reviewed the attached at Schedule “B” section of the By-Laws of Charity Care Hospital pertaining to “Conflicts of Interest” and agree to comply with this provision.

Dated

Signature

Print Name

Title

SCHEDULE “A”

List of Current Hospital Board of Trustee Members

List of Current Hospital Officers

List of Hospital Key Employees

For the purposes of Form 990 reporting a key employee is an employee of the organization (other than an officer, director or trustee) who meets all three of the following three tests:

- (1) Receives reportable compensation from the organization and all related organizations in excess of \$150,000 for the calendar year ending with or within the organization's tax year;
- (2) The employee has responsibilities, powers or influence over the organization as a whole that is similar to those of officers, directors or trustees, manages a discreet segment or activity of the organization that represents 10% or more of the activities, assets, income or expenses of the organization or shares authority to control or determine 10% or more of the organizations capital expenditures operating budget, or compensation for employees; and
- (3) Is one of the twenty employees with the highest reportable compensation from the organization and related organizations for the calendar year ending with or within the organization's tax year.

SCHEDULE “B”

CONFLICT OF INTEREST STATEMENT

Pursuant to Article XVII of the By-Laws of Charity Care Hospital:

ARTICLE XVII – CONFLICTS OF INTEREST

SECTION 1. PURPOSE

The purpose of the conflicts of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Trustee of the Corporation. This policy is intended to supplement but not replace any applicable state laws or regulations governing conflicts of interest.

SECTION 2. DEFINITIONS

- A. Interested Person. Any Trustee, principal Officer, or member of a committee with Board-delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person. If a person is an interested person with respect to any entity in the Health Care System of which the Corporation is a part, he or she is an interested person with respect to all entities in the Corporate system.
- B. Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment or family:
- (1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
 - (2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
 - (3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

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

SECTION 3. PROCEDURES

- A. Duty to Disclose. In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all material facts to the Trustees and members of Committees with Board-delegated powers considering the proposed transaction or arrangement.

B. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts and after any discussion with the interested person, he or she shall leave the Board or Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or Committee members shall decide if a conflict of interest exists.

C. Procedures for Addressing the Conflict of Interest

- (1) An interested person may make a presentation at the Board or Committee meeting, but after such presentation, he/she shall leave the meeting during the discussion of and vote on the transaction or arrangement that results in the conflict of interest.
- (2) The Chairperson of the Board or Committee shall, if appropriate, appoint a disinterested person or Committee to investigate alternatives to the proposed transaction or arrangement.
- (3) After exercising due diligence, the Board or Committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- (4) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or Committee shall determine by a majority vote of the disinterested Trustees whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

D. Violation of the Conflicts of Interest Policy

- (1) If the Board or Committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- (2) If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board or Committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 4. RECORDS OF PROCEEDINGS

The minutes of the Board and all Committees with Board-delegated powers shall contain:

- A. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present and the Board's or Committee's decision as to whether a conflict of interest in fact existed.
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement and a record of any votes taken in connection therewith.

SECTION 5. COMPENSATION

- A. A voting member of any Committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- B. Physicians who receive compensation, directly or indirectly, from the Corporation, whether as employees or independent contractors, are precluded from membership on any Committee whose jurisdiction includes compensation matters.

SECTION 6. ANNUAL STATEMENTS

Each Trustee, principal Officer and member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person:

- A. Has received a copy of the conflicts of interest policy;
- B. Has read and understands the policy;
- C. Has agreed to comply with the policy; and
- D. Understands that the Corporation is a charitable organization and that in order to maintain its federal tax-exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

SECTION 7. PERIODIC REVIEWS

- A. To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted.

In conducting the periodic reviews provided for in this Section, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

We would like to thank Timothy J. Conan (Costello Cooney & Fearon PLLC, Syracuse, NY) for providing this Practice Corner submission.

