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Conflicts of Interest

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September 15-19, 2019 | Baltimore, MD



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Definition

A conflict of interest occurs when an individual's private interest interferes in any way—or even appears to interfere—with the interests of the [entity] as a whole. A conflict can arise when one has interests that may make it difficult to perform work for the company in an objective and effective manner.

-New York Stock Exchange

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Human Nature

To what degree do you agree with the following:

“We can be a poor judge of our own biases and generally aren’t predisposed to divulge a possible conflict situation.”

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Drug reps and doctors prescribing habits

- Studies have shown that doctors predominately believe their colleagues are more susceptible to drug rep marketing strategies than they are themselves.
- Studies have indicated that doctors may be unable to distinguish between promotional information and scientific evidence.
- While disputed, evidence has been found to show correlation between drug rep interaction, gifts and prescribing behavior.

National Library of Medicine: NIH – PMC1876413

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Drug reps and doctors prescribing habits

It's my job to figure out what a physician's price is. For some it's dinner at the finest restaurants, for others it's enough convincing data to let them prescribe confidently and for others it's my attention and friendship...but at the most basic level, everything is for sale and everything is an exchange.

—Shahram Ahari, drug rep

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Types of Conflicts of Interest

- Direct or Indirect
- Financial or Non-Financial

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Types of Conflicts of Interest

<p>Direct</p> <p>Occurs when an employee's personal, family, professional or business interests intersect with their duties for mutual benefit.</p>	<p>Indirect</p> <p>Occurs when an employee acts to provide benefit to the personal, family, professional or business interests of individuals or groups with whom the employee is closely associated.</p>
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Types of Conflicts of Interest

<p>Financial</p> <ul style="list-style-type: none"> • Involves an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be financial. • People have a financial interest if they own property, hold shares, have a position in a company, receive benefits such as concessions, discounts, or can benefit financially from a decision made. 	<p>Non-Financial</p> <ul style="list-style-type: none"> • Arise from personal or family relationships, or involvement in sporting, social or cultural activities. • They include any tendency toward favoritism or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If personal values are likely to impact on the proper performance of duty, then these can also lead to a conflict of interest.
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Actual, Potential, Perceived

- **Actual:** A real conflict exists between an employee's duties and outside interests.
- **Potential:** An employee has a private interest that **COULD** conflict with their duties. This could be circumstances where it is foreseeable where a conflict may arise and steps should be taken now to mitigate the risk.

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Actual, Potential, Perceived

- **Perceived:** A third party or public could form the view that an employee's private interests could be influenced decisions and actions.
- **Conflict of Commitment:** Arises when a person is required to hold two or more roles inside or outside the organization that may actually, potentially, or are perceived to be in conflict with each other.

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Common Factors

- Acceptance of the risk (tone at the top!)
 - The 'get it done at all cost' mentality.
 - The 'cut through the red tape' mentality
 - The 'we are getting the best deal, so it is okay' mentality
 - The 'we disclosed it, so it is okay' mentality

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Common Factors

- Lack of clear policies and procedures
 - You can't know what you don't ask about.
 - After you know about it, what do you do about it?
- No process for reporting or complaints
 - Tips! A critical piece of what you can know.

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Potential Tests

Some are straight-forward, some are not.

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Policy and Procedures

- Policy 'best practice' or 'leading practice' review.
 - Is policy robust enough to require enough disclosure? Are there huge buckets of questions missing in the disclosure form?
 - Does the policy follow federal/state/other disclosure requirements.
- Simple policy compliance review.
 - Policy requires the following individuals to disclose X by X. Did they do that?

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Management Plans

- Who makes the decision if a management plan is warranted?
- Is this person free from a conflict of interest to make the decision?
- If a management plan is warranted, who creates, reviews and approves the plans?
- What is the process for monitoring the plan? How often?
- What is the process for making sure plans are up to date?
- Who informs new supervisors about the presence of a plan in a turnover situation?

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Discovery

- Develop a list of board members and administrators:
 - Conduct simple google searches of their names and keywords such as “Justin Noble” and “board” or “owner” or “stock”.
- Develop a list of high profile researchers or faculty.
 - Conduct a similar google search.
- Obtain a list of contracts with total spend.
 - Sort highest to lowest.
 - Throw out the easy low hanging fruit (Staples, Walmart). Who are you spending the most on with companies you’ve never heard of? Who is running those corporations?

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War Stories

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Purchasing – Direct, Financial

- Senior Director of Facilities leased a storage facility owned by his son for 8 years.
- The lease was a 6 month lease that ‘auto renewed’ for subsequent 6 month periods.
- Excuse was that storage was needed for ‘flex space’ during moves.
- \$100,540
- The Senior Director rushed a check through for payment which set off a red flag in Purchasing.

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Research – Indirect, Non-financial (initially)

- Researcher is involved with a non-profit that helps build water wells and support an orphanage in Africa.
- Research builds a course where students can earn credit by going overseas during the summer and doing research while helping the nonprofit.
- Turns financial, the researcher gets the nonprofit to ‘sponsor’ the students coming to the orphanage. In turn, the researcher raises money to buy goats ‘for the research’ which upon completion, the goats are slaughtered for food in the village.

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Construction – indirect, non-financial

massive over simplification

- Texas Tech starts a massive building boom.
- The Board of Regents is pressuring to ‘get things built’ and ‘get them on budget’.
- In the rush, the Vice Chancellor for Facilities Planning and Construction becomes comfortable with a small number of contractors that he ‘knows can get things done’.

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Thank You

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