

## Compliance Today – March 2020 Brainstorming conflicts of interest management in academic medicine

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Many posts on the HCCAnet and SCCEnet message boards are related to conflict of interest programs—questions about best practices, policies, procedures, and guidelines. The responses to those questions are necessarily limited, and that stands to reason. Every institution has unique circumstances, which make the guidelines for their programs somewhat exclusive.

This article does not detail what constitutes a conflict of interest (COI) nor does it provide a framework for a COI program. My intent is to get you thinking about those things that may (or should) come up along the way in developing the data collection part of your program or in designing a system for reporting and reviewing such disclosures of information. In the context of compliance program elements, this falls into auditing and monitoring.

Although the context of this exercise in brainstorming is from the perspective of an academic medical center (AMC), even for other AMCs, this article will not provide the answers. This article is about the questions.

### Why?

Even though “Why” usually appears last in the list of the Five Ws (i.e., Who, What, When, Where, and Why),<sup>[1]</sup> for practicality, we will start with it here. Doesn’t every big life decision start with first knowing your Why? Considering we are likely all compliance professionals, I feel fairly confident that you have this one covered, but I will ask anyway. Do you know why you need to manage real and perceived COIs? Think about that one. Let it sink in before you read further. The answer to your Why may provide a helpful framework for every other question you ask and address.

If you need some additional information to help you frame your Why, then I recommend taking a peek at the May 2017 issue of the *Journal of the American Medical Association*. It included more than 20 articles on conflicts of interest and covered a wide array of topics and considerations. I cannot top that resource by any stretch of the imagination, and I have no plans to do so.

The reasons for managing COI are too numerous to include here, but at a *minimum*, consider your responses to such questions as are found on the Internal Revenue Service Form 990, filed by many tax-exempt organizations, in Section VI, Section B, Questions 12a – 12c<sup>[2]</sup>:

- Did the organization have a written COI policy?
  - Were officers, directors, trustees, and key employees required to disclose annually interests that could give
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rise to conflicts?

- Did the organization regularly and consistently monitor and enforce compliance with the policy? If “Yes,” describe in Schedule O how this was done.

What about that description in Schedule O? In his *Compliance Today* article entitled “Compliance, the IRS Form 990, and conflicts of interest,” James G. Sheehan, chief, Charities Bureau, New York State Department of Law, states, “In my experience, as a regulator, the ‘yes’ box in 12c and the description in Schedule O are the most consistently false statements in healthcare organizations’ 990 filings.”<sup>13</sup>

If you are subject to this annual filing, perhaps one goal could be to make your organization’s Schedule O as accurate as possible.

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