



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER™

School of Medicine

*Operating Policy and Procedure*

## **SOM OP: 20.30, Outside Compensation to Clinical Faculty**

**PURPOSE:** The purpose of this School of Medicine (SOM) policy and procedure is to establish expectations and requirements for authorized outside compensation to SOM faculty who are members of the Medical Practice Income Plan (MPIP).

**REVIEW:** This SOM Policy and Procedure shall be reviewed within each odd-numbered fiscal year by the Executive Associate Dean for Administration. Revisions will be forwarded to the Office of the Dean for approval and publication.

### **POLICY/PROCEDURE:**

1. **General.** This policy supplements [HSC OP 70.18, Multiple Employment](#), and the MPIP Bylaws. It applies to all campuses and outlines general guidelines regarding establishment of outside employment by SOM faculty who are members of the MPIP, hereafter referred to as Clinical Faculty.
2. **Definitions.**
  - a. Outside Compensation: Outside compensation is defined as payment to a Clinical Faculty member for any compensated professional service or employment by any entity, other than TTUHSC, in accordance with [HSC OP 70.18, Multiple Employment](#).
  - b. Professional Fees: Professional fees consist of any and all revenue generated from the practice of medicine, including third-party payments. In accordance with the MPIP Bylaws, all professional fees are assigned to and are the property of the TTUHSC and must be centrally billed.
  - c. MPIP Bylaws: The MPIP Bylaws are the governing policies and procedures for the TTUHSC SOM Medical Practice Income Plan (MPIP).
  - d. Allowable Professional Income: In accordance with the MPIP Bylaws, other allowed professional income for Clinical Faculty includes:
    - 1) Honoraria and non-professional retainers;
    - 2) Patent income and royalties as shall be established by the Intellectual Property Rights policy;
    - 3) Fees for court appearances, depositions, record reviews, other than those given by the member in an official capacity, as approved by the department chair;
    - 4) Payment for editing scientific publications;

- 5) Non-patient consultation fees earned as a regional or national consultant with non-affiliated institutions, with approval of the department chair; or
  - 6) VA consultation fees.
- e. Income earned from the above list of allowable professional income which exceeds twenty percent (20%) of a member's annual total compensation shall accrue to the member's department program fund. All exceptions to the above must be approved by the SOM Dean.
- f. Conflict of Interest: A conflict of interest may exist when a Clinical Faculty member invests in competing enterprises not affiliated with the TTUHSC SOM or its primary teaching hospitals or serves on the board or other governing body of a competing enterprise, in accordance with the following:
- 1) Ethics Policies – [Regents' Rule 03.01](#) and [TTUHSC OP 52.06, Standards of Conduct and Ethics Guide](#) establish that an employee should not:
    - a) Accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows, or should know, is being offered with the intent to influence the officer's or employee's official conduct;
    - b) Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of the official position;
    - c) Accept other appointment of any employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of official duties; or
    - d) Make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest.
  - 2) Texas Government Code states:
    - a) [Chapter 572, Subchapter A, Section 572.001](#). It is the policy of this state that a state officer or a state employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligations of any nature, that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.
    - b) [Chapter 572, Subchapter A, Section 572.005](#). An individual has a substantial interest in a business entity if the individual: 1) has a controlling interest in the business entity; 2) owns more than 10 percent of the voting interest in the business entity; 3) owns more than \$25,000 of the fair market value of the business entity; 4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity; 5) is a member of the board of directors or other governing board of

the business entity; 6) serves as an elected officer of the business entity; or 7) is an employee of the business entity.

- g. Assignment and Plan Agreement: [SOM OP 20.30.A, Assignment and Plan Agreement](#), is a legal document included with Clinical Faculty employment contracts and executed by new faculty, and spouse, if applicable, at the start of employment, and annually thereafter. This document clarifies the assignment of all fees for professional activities to the MPIP Trust Fund, except for those exempt by the MPIP Bylaws or the dean, and requires the disclosure of potential conflicts of interest.

### **3. Disclosure.**

- a. Annual Requirement for Existing Faculty: Prior to the start of each fiscal year, the Faculty Affairs and Development Office will distribute [SOM OP 20.30.B, Outside Compensation Disclosure Statement](#) to all Clinical Faculty. Each Clinical Faculty is required to complete and sign the Outside Compensation Disclosure Statement and return it to Faculty Affairs and Development by August 31 of each year.
- b. Initial Requirement for New Faculty: In conjunction with the execution of the Physician Employment Agreement and the SOM Dean's letter of offer, [SOM OP 20.30.A, Assignment and Plan Agreement](#), and [SOM OP 20.30.B, Outside Compensation Disclosure Statement](#), shall be executed by the faculty candidate prior to employment.

### **4. Procedures for Handling Conflicts of Interest.** A conflict of interest related to outside compensation in violation of this policy as determined by the department chair, regional dean, and/or dean will be addressed in the following manner:

- a. All professional services associated with the potential conflict of interest by the Clinical Faculty member will cease until a resolution is determined.
- b. The Clinical Faculty member may be required to justify in writing his or her involvement in the potential conflict of interest as related to outside compensation.
- c. If applicable, the department chair will consider the option of contracting with the outside entity through the clinical department or the SOM to provide the medical service(s) in question. This option would allow the medical service(s) to continue, and the Clinical Faculty member would continue to be compensated for the services provided, based upon his/her arrangements with the department chair.
- d. If contracting with the outside entity is not feasible, a written request by the department chair to waive the MPIP Bylaws allowing the outside compensation for a specified period of time may be submitted to the SOM Dean.
- e. The SOM Dean will consider the request and provide a final decision in writing to the department chair and Clinical Faculty member.

5. **Documentation.** Copies of any request for waiver and the SOM Dean's response will become a permanent record in Human Resources and the Faculty Affairs and Development Office.

#### **ATTACHMENTS**

[SOM OP 20.30.A, Assignment and Plan Agreement](#)

[SOM OP 20.30.B, Outside Compensation Disclosure Statement](#)