

Administrative Policy and Procedure Manual

Intellectual Property and Technology Transfer
Scope: Organizationwide

Effective Date: 04/01/2005
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I. Purpose

Children's Hospital of Chicago Medical Center (further defined in section II below) is dedicated to pediatric treatment, research and education. Although the Medical Center does not undertake research or developmental work principally for the purpose of developing Intellectual Property and commercial applications, Intellectual Property sometimes results from the research activities carried out wholly or in part with Medical Center funds, facilities or other Medical Center Resources. It is the policy of the Medical Center to assure the utilization of such Intellectual Property for the common good and, where necessary, to pursue suitable protection and licenses to encourage Intellectual Property development.

This policy applies to all Medical Center Personnel and Medical Center Contractors.

II. Definitions

DEFINITIONS

- a. **Children's Hospital of Chicago Medical Center** includes, but is not limited to the following: Children's Hospital of Chicago Medical Center, Stanley Manne Children's Research Institute, Ann & Robert H. Lurie Children's Hospital of Chicago, Ann & Robert H. Lurie Children's Hospital of Chicago Foundation, Lurie Children's Medical Group, and the Pediatric Faculty Foundation and any entities which may be owned or controlled in the future by Children's Hospital of Chicago Medical Center.
- b. **Medical Center Personnel** all persons who use Children's Hospital of Chicago Medical Center Resources, (other than Medical Center Contractors), including but not limited to: all medical staff members, employees, residents, fellows, students, graduate assistants, technicians, appointees, volunteers, visitors and other persons, whether compensated or not, by the Medical Center or any of its corporate affiliates.
- c. **Medical Center Contractors** include any persons who contract with Children's Hospital of Chicago Medical Center and use Medical Center Resources including, but not limited to, employees of the following entities: Children's Surgical Foundation, Inc. and Pediatric Anesthesia Associates, Ltd.
- d. **The Research Institute** means Stanley Manne Children's Research Institute.
- e. **The Medical Center** means Children's Hospital of Chicago Medical Center.

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- f. **The Hospital** means Ann & Robert H. Lurie Children's Hospital of Chicago.
- g. **Intellectual Property** includes inventions, discoveries, know-how, show-how, processes, unique materials, copyrightable works, original data and other creative or artistic works which may have value. Intellectual Property includes that which is protectable by statute or legislation, such as patents, copyrights, trademarks, service marks, trade secrets, mask works, and plant variety protection certificates. It also includes the physical embodiments of intellectual effort, for example, models; machines; devices; designs; apparatus; instrumentation; circuits; computer programs and visualizations; biological materials, including proteins, genes, gene products, DNA probes, cell lines, and transgenic animals; chemicals; other compositions of matter; plants; and records of research, including research notebooks; data; databases; photographs, original drawings and diagrams.

For the purposes of this policy, the term specifically excludes books and chapters which are not work products of any grant, contract, or sponsored agreement.

- h. **Medical Center Resources** include all property or resources funded or otherwise provided by the Medical Center, including but not limited to: staff, patients, space (such as, but not limited to, office, operating room, and laboratory space), equipment, computers and networks, and financial support (such as, but not limited to, salary or other monies controlled or disbursed by or through the Medical Center through philanthropic, government, or industry gift, grant, contracts or otherwise).
- i. **Creator** refers to an individual or group of individuals who make, conceive, reduce to practice, author, or otherwise make a substantive intellectual contribution to the creation of Intellectual Property. "Creator" includes the definition of "inventor" used in U.S. patent law and the definition of "author" used in the U.S. Copyright Act.
- j. **Disclosure Form** shall identify the source(s) of funding and the name of the Creator(s). For inventions, the disclosure shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains, a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical or electronic characteristics of the invention.

III. Procedures

A. OBJECTIVES

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The Medical Center has established the following policies and procedures with respect to inventions, patents, and technology transfer in order to:

1. Promote the Medical Center's policy of encouraging scientific research and scholarship;
2. Serve the public interest by providing an organizational structure and procedures through which Intellectual Property that arises in the course of Medical Center research may be made readily available to the public through established channels of commerce;
3. Encourage, assist, and provide tangible reward to Medical Center Personnel and Medical Center Contractors who make Intellectual Property processed under this policy;
4. Establish principles and uniform procedures for determining the rights and obligations of the Medical Center, Creators, and sponsors, with respect to Intellectual Property arising during the Creator's association with the Medical Center;
5. Enable the Medical Center to enter into institutional agreements with federal research funding agencies; and
6. Produce funds for further scientific investigation and research and for the overall needs of the Medical Center.

B. ADMINISTRATIVE RESPONSIBILITY

1. **Chief Research Officer** shall be responsible for administrative matters relating to Intellectual Property and technology transfer and shall represent the Medical Center in all matters of policy affecting the Medical Center's relations with Creators, government, private research sponsors, industry, and the public. The President of the Medical Center may designate the Chief Research Officer or other administrative official to carry out these responsibilities in whole or in part.
2. **Intellectual Property Administrator**, as needed, shall be appointed by the Chief Research Officer and may be a full- or part-time employee of the Medical Center or a recognized patent management organization. The Intellectual Property Administrator shall:
 - (a) Establish liaison with appropriate faculties and researchers to monitor research and to assist in the identification of potentially protectable discoveries and in the

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reporting of such discoveries;

- (b) Establish liaison with federal and private sponsors of research and ensure compliance with any provisions in sponsored research agreements regarding Intellectual Property;
- (c) Receive all disclosures of Intellectual Property submitted under this policy;
- (d) Determine the ownership of and equities involved in Intellectual Property, in accordance with Section V below;
- (e) Determine whether Intellectual Property in which the Medical Center has an equity interest is protectable;
- (f) In consultation with the Creator, evaluate potential commercial use and investigate possible courses of action for protecting and/or marketing Intellectual Property in which the Medical Center has an equity interest;
- (g) Negotiate licensing and technology transfer agreements;
- (h) Maintain complete records on all disclosures and other Intellectual Property matters of interest to Medical Center administration;
- (i) Serve as an ex-officio member of the Intellectual Property Committee in the capacity of Secretary, and prepare an annual report to the committee; and
- (j) Promote the cross-fertilization of ideas within the Medical Center scientific community consistent with the need for confidentiality of potentially protectable subject matter until the appropriate applications and registrations have been filed.

3. **Intellectual Property Committee** shall be appointed by the Chief Research Officer, or other designated Medical Center administrative official and shall consist of up to seven members, to consist of the following: - Chief Operating Officer of the Research Enterprise, General Counsel (or his or her designee) and such other members as shall be appointed by the Chief Research Officer. At the discretion of the Chief Research Officer, the committee may be established as an ad hoc or a standing committee.

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The Intellectual Property Committee shall:

- (a) Receive and review the periodic reports of the Intellectual Property Administrator, and consult with the Intellectual Property Administrator when requested;
- (b) Report to the Chief Research Officer on the implementation of this policy, and recommend such new or different policies or guidelines as may be more suitable for the achievement of its objectives;
- (c) Sit as a tribunal for the resolution of specific disputes involving the ownership of and equities involved in inventions, on appeal from decisions of the Intellectual Property Administrator; and
- (d) Receive requests for interpretations of this policy and, after deliberation, recommend to the Chief Research Officer such interpretations as it considers appropriate.

C. INTELLECTUAL PROPERTY MANAGEMENT

1. For all Intellectual Property owned by the Medical Center under this policy, the Medical Center will, at no expense to the Creator, make reasonable efforts to evaluate the interest of others in commercializing the Intellectual Property, seek licenses and options for licenses, have applications for Intellectual Property filed and prosecuted, and otherwise manage the Intellectual Property or arrange for their management by recognized Intellectual Property management organizations. The Medical Center may assign such Intellectual Property to a foundation or corporation organized by the Medical Center for the purpose of Intellectual Property management.
2. The Medical Center will normally evaluate potential commercial use of Intellectual Property prior to the filing of an application or registration. Options to license and other contractual arrangements appropriate in the circumstances will normally be sought as early as possible as a validation of potential commercial use. If the Medical Center determines that neither commercial possibilities nor the potential contribution to the public good warrants proceeding further, the Intellectual Property will be returned to the Creator and shall belong to him or her unless such action is precluded or restricted by prior agreement with sponsors. The Medical Center shall make such determination within a reasonable time, in no event longer than one year from the date of disclosure.

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3. In licensing, sale, or other disposition of rights to Intellectual Property, the Medical Center will seek to guard against repressive practices. Royalty rates shall be reasonable with the goal of the Medical Center effectively to transfer technology in the public interest.

D. REPORT OF INTELLECTUAL PROPERTY

Medical Center Personnel and Medical Center Contractors who create Intellectual Property shall cooperate with the Medical Center in defining the rights to such Intellectual Property by promptly reporting to the Intellectual Property Administrator on the Medical Center's Disclosure Form.

E. OWNERSHIP OF INTELLECTUAL PROPERTY AND SUPPORTIVE TECHNOLOGY

1. Intellectual Property resulting from research or other work conducted by Medical Center Personnel or Medical Center Contractors using Medical Center Resources shall be considered the property of the Medical Center. Medical Center Personnel or Medical Center Contractors shall, upon request, assign to the Medical Center all rights and title to such Intellectual Property and shall make known and available to the Medical Center all supportive technology related to the same. Supportive technology is intended to include any non-protectable Intellectual Property that would assist the Medical Center in achieving the goals of this policy. If the Medical Center decides not to request assignment of all rights and title to such Intellectual Property, and if there are no restrictions by any outside sponsor of the research, the Medical Center may release its proprietary interest to the Creator.
2. Intellectual Property resulting from research or other work conducted by Medical Center Personnel or Medical Center Contractors using resources other than Medical Center Resources shall be considered the property of the Creator (or, as applicable, the non-Medical Center third party provider of any resources) and may be protected and/or commercialized by that individual at that individual's expense. It is recognized that when the Intellectual Property is within the specific subject area of the Creator's current and ongoing research activities, disputes may develop concerning whether the work was conducted using Medical Center Resources. In order to reduce the possibility of such disputes, it shall be the responsibility of Medical Center Personnel or Medical Center Contractor to provide his/her division and/or departmental chairman notice that he/she is engaging in research activities independently within the subject area of his/her current research, and describe in such notice the focus of these independent research activities, with a copy to the Medical Center's President and the Chief Research Officer.

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Determinations as to whether Medical Center Resources are utilized shall be made by the Chief Research Officer.

3. Intellectual Property resulting from research or other work conducted by Medical Center Personnel or Medical Center Contractors wholly on their own time, but involving some but not significant use of Medical Center Resources, shall be considered the property of the individual and may be protected and/or commercialized by the individual at the individual's expense. A percentage of gross returns to the Creator shall be remitted, to the Medical Center, as provided in section 8.c. Generally, an invention, software, or other copyrightable material, mask work, or tangible research property will not be considered to have been developed using "significant" Medical Center Resources if:
 - a. the invention, software, or other copyrightable material, mask work, or tangible research property has been developed outside of the assigned area of research of the inventor/author under a research assistantship or sponsored project; and
 - b. only a minimal amount of time has been spent using significant Medical Center Resources or only insignificant Medical Center Resources have been utilized. Use of office, library machine shop facilities, and traditional desktop personal computers are examples of facilities and equipment that are not considered significant; and
 - c. the development has been made on the personal, unpaid time of the inventor/author.
4. Intellectual Property arising from research financed in whole or in part by the U.S. Government or other governmental entity is controlled by the terms of the applicable grant or contract. The Medical Center is obligated to report to the appropriate government agency all such Intellectual Property or discoveries for definition of the government's rights and interests. In cases where the government claims no Intellectual Property rights or waives its rights, the Hospital's Intellectual Property policies will control, subject to such limitations as the government may impose.
5. Intellectual Property resulting from research or other work sponsored by nongovernmental entities is controlled by the terms of the funds or other agreements related thereto, if applicable, and if not, by Medical Center Intellectual Property policies.
6. Where mutually agreeable between the Creator and the Medical Center, and on terms and conditions acceptable to both, the Medical Center will accept by assignment, bequest, or other appropriate instrument, title to intellectual property falling in sections E.2. and E.3. above.

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7. Any dispute between the Intellectual Property Administrator and the Creator as to the determination of equities in Intellectual Property shall be resolved by the Intellectual Property Committee. The decision of the Intellectual Property Committee may be further appealed to the Chief Research Officer, or upon the Chief Research Officer's referral, to the President of the Medical Center.
8. Any use of the Medical Center's name or any Medical Center's affiliate's name or names of institutes contracting with the Medical Center in connection with the commercialization of Intellectual Property by an individual shall be approved in advance by the Medical Center.

F. DIVISION OF INCOME

1. All inventions falling within paragraph E.3 above shall be protected and/or commercialized, if at all, under a simple agreement between the Medical Center and Creator which shall provide for periodic reports of sales subject to royalties and for payment to the Medical Center of ten percent (10%) of gross income derived by the Creator as royalties on the invention. The Intellectual Property Committee may recommend that such payment be reduced or eliminated if it appears that a 10% contribution is excessive under the circumstances.
2. All income derived from Intellectual Property falling within paragraph E.2 above shall belong to the Creator (or Creator's heirs, successors, and assigns). If there are joint Creators, the net income shall be divided equally among them absent a mutual agreement to the contrary.
3. All income derived from inventions falling within paragraph E.1 above shall be distributed in accordance with the following rules:
 - i. The Medical Center will first deduct any direct expenses incurred by it in connection with the initial patenting or registration, development, and commercialization of the Intellectual Property. Any such expenses incurred by the Creator with the prior approval of the Intellectual Property Administrator will also be deducted and paid to the Creator.
 - ii. The Medical Center will next distribute to the Creator 30% of the net income. At the discretion of the Creator, the income may be distributed either directly to the Creator as personal income or retained in a separate Medical Center fund for the

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use of the Creator to support the activities of the Creator's research or a combination thereof.

- iii. The Medical Center will distribute 30% of the net income to the Research INstitute to promote and advance its research mission.
 - iv. The remaining 40% will be retained by the Medical Center.
4. Income from Intellectual Property falling within paragraph E.4 above, where the government claims no Intellectual Property rights or waives such rights, shall be distributed in accordance with paragraph 8.c. above, unless the waiver or other agreement between the Medical Center and the government provides for a different distribution.
 5. In the case of inventions falling within paragraph E.5 above, any royalties received by the Medical Center shall be distributed in accordance with paragraph 8.c. above, unless the contract between the Medical Center and the sponsor provides for a different distribution.
 6. Income from inventions falling within paragraph E.6 above shall be distributed in accordance with the agreement between the Creator and the Medical Center.

G. CONSULTING AGREEMENTS

Medical Center Personnel and Medical Center Contractors utilizing Medical Center Resources and engaged in external consulting work or business are responsible for ensuring that agreements emanating from such work are not in conflict with this policy. Such Medical Center Personnel and Medical Center Contractors should make their obligations under this agreement known to others with whom they make such agreements and should provide other parties to such agreements with copy of this document. Copies of any consulting agreements which contain provisions relating to ownership of Intellectual Property and which are entered into in connection with research or other work in which Medical Center Resources are utilized shall be provided promptly to the Chief Operating Officer of the Research Enterprise.

H. PUBLICATIONS

Inasmuch as publication prior to the filing of a U.S. patent application is a bar to the grant of certain foreign patents and can bar the grant of a U.S. patent if it occurred a year earlier than the filing date, it may be necessary in some circumstances to temporarily restrict publication for short periods of time.

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Accordingly, the Medical Center may require Medical Center Personnel and Medical Center Contractors to delay the publication date of any publication which discloses an invention made within the scope of their duties to the Medical Center until after a U.S. patent application has been filed on the invention. Such application shall not be unreasonably delayed.

I. INTERPRETATION

Questions of interpretation concerning this policy shall be submitted to the Intellectual Property Committee and resolved, after consideration of the Intellectual Property Committee's recommendations, by the President or, upon the President's referral, by the Medical Center Board of Directors.

J. TERMINATION OF REVISION OF POLICY

This policy may be changed or discontinued at any time by action of the Medical Center Board of Directors. Such changes or discontinuance shall not affect rights accrued prior to the date of such action.

K. AGREEMENTS

The policy as amended from time to time shall be deemed to a condition of initial or continuing employment or engagement of all Medical Center Personnel and Medical Center Contractors and a condition of involvement of every student who works on any research project under the Medical Center. All such Medical Center Personnel, Medical Center Contractors, and students will be expected to sign agreements incorporating the terms of this policy; but failure to sign shall not affect the applicability of the policy nor relieve any Medical Center Personnel, Medical Center Contractor or student from the obligations imposed by it. Any use of Medical Center Resources after the effective date of this policy shall be subject to this policy.

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INTELLECTUAL PROPERTY AGREEMENT

THIS AGREEMENT IS MADE BY ME with Children's Hospital of Chicago Medical Center in consideration of my employment and/or my utilization of Medical Center facilities and/or Resources.

I agree to notify the Medical Center (or any individual, corporation or governmental agency which the Medical Center may specify) promptly of any Intellectual Property which I believe to be protectable and which I conceive or develop while employed by the Medical Center or while using any Medical Center facilities and/or Resources, in order that determination of the rights and equities in such invention may be made in accordance with the Medical Center Policy on Intellectual Property and Technology Transfer.

In the event the Medical Center desires to seek protection on such Intellectual Property that has been determined to be Medical Center property, I agree to assign to the Medical Center all my rights, title, and interest in and to such Intellectual Property and to supply all information and execute all papers necessary for the purpose of prosecuting applications thereon. I understand that expenses of making such assignments and procuring such Intellectual Property shall be paid by others. I also understand that the Medical Center reserves the right not to pursue protectable Intellectual Property and to abandon the prosecution of any application.

If the Medical Center receives revenue from Intellectual Property assigned by me pursuant to this Agreement, I understand I will share in these funds according to the distribution schedule set forth in the Medical Center Policy on Intellectual Property and Technology Transfer.

I further agree to do all things necessary to enable the Medical Center to fulfill its obligations to any person, corporation, or other agency sponsoring the particular research projects in which I am or may be engaged.

I understand that this Agreement is part of the terms of my employment and/or my utilization of Medical Center facilities and/or Resources and that any contract of employment heretofore or hereafter entered into among me and the Medical Center, Medical Center affiliates and Medical Center contracting institutes shall be deemed to include this Agreement except to the extent that an express provision of such prior contract is inconsistent therewith.

Signature

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IV. Cross References/Related Policies

Date Written: 4/2005

Date Reviewed/Revised:

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Date of Approvals:

Hospital Operations Committee: 4/200/5

Administrative Policy & Procedure Committee: 12/22/2015