

## **Health Sciences Center Faculty Outside Professional Activities**

**Approved by Paul B. Roth, MD, Executive Vice President for Health Sciences  
17 November 2008; 30 November 2010**

### **Outside Professional Activities by Health Sciences Center Faculty Members**

It is recognized that faculty members have multiple opportunities to engage in professional activities outside of the University and/or outside of their responsibilities as faculty members. Some of these activities provide direct remuneration to the faculty members. The current policy has been developed and promulgated to provide guidance to faculty members, deans, department chairs, and others in the HSC regarding HSC faculty members' rights, privileges, and responsibilities in these matters; and to outline the rules and restrictions that apply to these matters. Additionally, in the highly regulated environment in which health care organizations operate, it is necessary to specify the conditions under which faculty may accept honoraria or other payments from vendors.

#### **In General:**

- All outside activities must be in compliance with all applicable UNM, HSC, and college or school policies, including but not limited to the following, which are incorporated herein by reference:
  - Affiliation and Reassignment Agreement of the UNM Medical Group;
  - UNM Faculty Handbook Policies C130 and C140;
  - UNM, HSC, and college or school Conflict of Interest Policies, including the Policy for Managing Private Healthcare Industry (PHCI) Interaction;
  - College or School Professional Leave policies; and
  - Locum Tenens and Specialty Extension Services policies.
  
- Faculty members conducting outside professional activities while on private time (section 2 below), while on annual leave (section 3 below), while on leave without pay (section 4 below), or while on University time (section 6 below) must do so as independent agents and not as representatives of the University of New Mexico.
  
- All leave – including annual leave, professional leave, and leave without pay – must be pre-approved in writing by the faculty member's immediate supervisor. In addition, leave without pay requires pre-approval by the President of the University.
  
- Participation by faculty members in vendor-sponsored speakers bureaus is strongly discouraged. If participation does occur, it may not take place on University time or on professional leave time. Full disclosure concerning the participation must be made to the faculty member's immediate supervisor, as indicated in Section 7 below.
  
- Some key definitions are provided in the last section of this policy.

**The UNM Health Sciences Center has adopted the following policy regarding Outside Professional Activities, including “outside employment”:**

**1. Departmental flexibility**

- a. Deans, Chairs, and Directors are responsible to administer this policy.
- b. Deans, Chairs and Directors may establish specific written procedures and reporting requirements for their units that are consistent with this policy and that serve to produce the greatest benefit to their units, to the Institution, and to the professional career-development of the faculty members for whom they are responsible.
- c. Unit-specific policies, procedures, and reporting requirements require prior written approval of the Dean and of the EVPHS.

**2. Activities conducted on a faculty member’s private time (“on your own time”):**

- a. These activities may not be conducted during normal duty hours, as defined by the faculty member’s immediate supervisor.
- b. These activities are conducted in lieu of private, family, recreational, activities – not in lieu of other professional activities.
- c. These activities may not make use of University staff, buildings, facilities, equipment, supplies, postage, telephones, computers, internet access, letterhead, etc. except as permitted by UNM “incidental use” policies.
- d. *Faculty:* Except as provided in applicable institutional policies, including Conflict of Interest Policies, the HSC does not require individual faculty members to report to the Dean, Chair or Unit Director the amounts of personal time specifically devoted to outside employment, the identities of outside employers, or the payment amounts received while on personal time, unless such outside employment is for or on behalf of a vendor. If such outside employment is for or on behalf of a vendor, the procedures specified in Section 7 (below) are to be followed. The requirements of all UNM Conflict of Interest Policies must also be followed by those providing services to vendors.
- e. *Dean/Chair:* Regarding the outside activities undertaken by the faculty members in their Units while on their own time, the EVPHS does not require Deans, Chairs, or Directors to report the amounts of time specifically devoted to outside employment, the identities of their outside employers, or the payment amounts received by their faculty, unless such

outside employment is for on behalf of a vendor. If any faculty members in their units – while they are on their own time – engage in outside employment for or on behalf of a vendor, then the procedures specified in Section 7 (below) are to be followed.

- g. Faculty may need a NM business license and may need to report and pay Gross Receipts Tax for remunerated activities conducted on their own time.
- h. Faculty conducting business on their own time are not covered by the NM Tort Claims Act and should consider obtaining individual liability coverage.

### **3. Activities conducted while on annual leave**

- a. Annual leave for faculty members must have prior written approval of the Department Chair or designated Unit Director.
- b. These activities may not make use of University staff, buildings, facilities, equipment, supplies, postage, telephones, computers, internet access, letterhead, etc. except as permitted by UNM “incidental use” policies.
- d. *Faculty:* Except as provided in applicable institutional policies, including Conflict of Interest Policies, the HSC does not require individual faculty members to report to the Dean, Chair or Unit Director the amounts of annual leave time specifically devoted to outside employment, the identities of outside employers, or the payment amounts received while on annual leave, unless such outside employment is for or on behalf of a vendor. If such outside employment is for or on behalf of a vendor, the procedures specified in Section 7 (below) are to be followed. The requirements of all UNM Conflict of Interest Policies must also be followed by those providing services to vendors.
- e. *Dean/Chair:* Regarding the outside activities undertaken by the faculty members in their Units while on annual leave, the EVPHS does not require Deans, Chairs, or Directors to report the amounts of time specifically devoted to outside employment, the identities of their outside employers, or the payment amounts received by their faculty, unless such outside employment is for on behalf of a vendor. If any faculty members in their units – while they are on annual leave – engage in outside employment for or on behalf of a vendor, then the procedures specified in Section 7 (below) are to be followed.

- g. Faculty may need a NM business license and may need to report and pay Gross Receipts Tax for remunerated activities conducted on their own time.
- h. Faculty members conducting business on their own time are not covered by the NM Tort Claims Act and should consider obtaining individual liability coverage.

#### **4. Activities conducted while on Leave Without Pay**

- a. Leave without pay for faculty members must have prior written approval by the Department Chair, Dean, EVPHS, and UNM President, as delineated in the UNM Faculty Handbook.
- b. These activities may not make use of University staff, buildings, facilities, equipment, supplies, postage, telephones, computers, internet access, letterhead, etc.
- d. *Faculty:* Except as provided in applicable institutional policies, including Conflict of Interest Policies, the HSC does not require individual faculty members to report to the Dean, Chair or Unit Director the amounts of leave without pay time specifically devoted to outside employment, the identities of outside employers, or the payment amounts received while on leave without pay, unless such outside employment is for or on behalf of a vendor. If such outside employment is for or on behalf of a vendor, the procedures specified in Section 7 (below) are to be followed. The requirements of all UNM Conflict of Interest Policies must also be followed by those providing services to vendors.
- e. *Dean/Chair:* Regarding the outside activities undertaken by the faculty members in their Units while on leave without pay, the EVPHS does not require Deans, Chairs, or Directors to report the amounts of time specifically devoted to outside employment, the identities of their outside employers, or the payment amounts received by their faculty, unless such outside employment is for or on behalf of a vendor. If any faculty members in their units – while on leave without pay – engage in outside employment for or on behalf of a vendor, then the procedures specified in Section 7 (below) must be followed.
- g. Faculty may need a NM business license and may need to report and pay Gross Receipts Tax for remunerated activities conducted on their own time.

- h. Faculty conducting business on their own time are not covered by the NM Tort Claims Act and should consider obtaining individual liability coverage.

**5. Activities conducted while on Professional Leave**

- a. Professional leave for faculty members must have prior written approval of the Department Chair or Unit Director and be consistent with all Professional Leave policies of the University, the HSC, the College or School, and the specific unit.
- b. Professional leave for department chairs must have prior written approval of the Dean; professional leave for Deans must have prior written approval of the EVPHS.
- c. The leave must be considered by the EVPHS, Dean, or Chair to be beneficial to individual professional development and institutional reputation and/or success.
- d. Faculty, Unit Directors, Chairs, and Deans are required to report all professional leave time to their supervisors, as enumerated above.
- e. Professional leave time may not be used to conduct outside employment for or on behalf of a vendor. Honoraria may not be accepted from vendors for activities conducted while on professional leave. As noted in the definitions below, this prohibition on the receipt of honoraria does not include payments for service on NIH review panels, payments for serving as visiting faculty members at peer institutions or as speakers at professional meetings, and the like. Professional leave may be appropriate for the kinds of activities included in the definition of “remunerated scholarship” below and in the Faculty Handbook.
- e. Deans are required to provide semi-annual reports to the EVPHS of all faculty professional leave time, including their own professional leave time.

6. **Activities conducted while on University time (the “one day a week (52 day) maximum” described in the Faculty Handbook (Policy C130)**

- a. In practice, meeting their full obligations to the University will require 100% of most HSC faculty members’ professional efforts. Hence, permission to engage in outside activities while on University time will be unusual, and will require exceptionally strong justification. Only those faculty members whose annual evaluations have found them to be at least “satisfactory” in all performance categories will be considered for approval to engage in outside activities while on University time. Prior to engaging in any such activities, faculty members must obtain written approval from their immediate supervisors (EVPHS, Dean, Chair, or Unit Director) for any outside professional commitments that are proposed to be conducted during normal duty hours. University time may not be used for outside employment for or on behalf of a vendor. The supervisor may grant permission to engage in allowed activities only if they are of an extent that does not interfere with the discharge of the faculty member's full obligation to the University, do not constitute a conflict of commitment, and do not violate any Conflict of Interest or other applicable policies. If all other criteria have been met, the maximum amount of University time that can be approved for such outside activities is 52 days per year for 12-month faculty members.
- b. These activities may not make use of University staff, buildings, facilities, equipment, supplies, postage, telephones, computers, internet access, letterhead, etc. Exceptions must be pre-approved by the Chief Financial Officer of the Health Sciences Center and may require reimbursement to the University.
- c. In addition to the requirement to obtain prior written authorization, all those engaging in outside professional activities under UNM Policy C130 must provide to their immediate supervisors semi-annual written reports detailing their activities under the said policy, including the nature and extent – including the time involved – of all outside professional activities conducted while on University time.
- d. Deans must provide semi-annual reports to the EVPHS specifying the faculty members (including themselves) who engaged in outside professional activities under UNM Policy C130, the specific information enumerated above, and the dates and times of the activities.
- g. Faculty may need a NM business license and may need to report and pay Gross Receipts Tax for remunerated activities conducted on their own time.

- h. Faculty conducting business on their own time are not covered by the NM Tort Claims Act and should consider obtaining individual liability coverage.

**7. Protocols and standards governing compensation of faculty members by vendors for participation in vendor-sponsored seminars, promotional trainings, educational events, and other industry-sponsored programs.**

- a. Prior to engaging in any activities for which faculty members expect to be remunerated by a vendor, the faculty members are required to provide in writing to their immediate supervisors:
  - i. the identity of the vendor proposing to make the payment to the faculty member and any relevant past and existing financial interests with the vendor;
  - ii. the specific vendor-sponsored activity for which the payment is proposed to be paid, including dates and times; and
  - iii. the proposed remuneration which includes compensation/fees, royalties or other payments, honorariums, equity interests and/or intellectual property rights.**
- b. Faculty members are required to report any changes in information submitted in 7(a) within 30 days after it occurs.
- c. Faculty members who are engaged in research sponsored by a vendor and who propose to engage in other activities that will result in remuneration or reimbursement by the vendor, must file a new Conflict of Interest form with the COI committee, as required by research policy E110.
- d. The requirements of this section (section 7) apply equally to all HSC contract faculty members, regardless of their FTE.
- e. The amount of the compensation to be paid to the faculty member must represent the fair market value of the services to be rendered for or on behalf of the vendor;
- f. The payment of the compensation must not occur until after the services have been rendered;
- g. The arrangement must be in writing;
- h. In connection with vendor-sponsored seminars, promotional trainings, or educational events for which faculty members may be paid honoraria merely for their attendance, it is also a requirement that the faculty member's immediate supervisor must determine that the value to the UNM HSC of the faculty member's participation in the event outweighs any recreational or entertainment value of the event;
- i. Deans must provide semi-annual reports to the EVPHS specifying the faculty members (including themselves) who engaged in vendor-sponsored activities,

together with the specific information enumerated above concerning the activities.

- j. The above requirements must be met without exception, regardless of whether the activity is conducted on a faculty member's private time, on annual leave, or on leave without pay. Neither University time nor professional leave time may be used to conduct activities for which remuneration is provided by a vendor.

## **8. Exceptions**

- Exceptions to the terms of this policy may be granted only by the EVPHS. A written request for an exception should be addressed to the faculty member's immediate supervisor. The request should include a full justification of the requested exception. If approved by the supervisor, the request will be moved forward to the supervisor's immediate supervisor. If approved at that level, the request will be forwarded to the next administrative level, up to the EVPHS, who must make the final decision. In the SOM, for example, a request approved by a Division Chief would be forwarded to the Department Chair; if approved by the Chair, the request would be forwarded to the Executive Dean; if approved by the Executive Dean, the request would be forwarded to the EVPHS. If the request is disapproved at any level, it will be returned to the faculty member with an explanation for the disapproval, and will not be forwarded to the next responsible official.

## **9. Appeals**

- a. A faculty member whose request for approval under this policy has been denied may appeal the denial to the immediate supervisor of the official who issued the denial.
- b. The written appeal, with full disclosure of pertinent facts and allegations, should be provided to the appropriate official within ten working days of receipt of the denial. The official will provide a written decision in the matter, including his or her reasoning, within ten working days of receipt of the appeal. If the official's decision is to recommend approval of the request, he/she will forward the recommendation to the next administrative level. If the official's decision is to sustain the denial, he/she will return the appeal to the faculty member along with a written explanation of the reasons for the decision. A faculty member who is dissatisfied with an official's decision may appeal the decision to the decider's supervisor, in writing, within ten working days of receipt of the contested decision. Again, the recipient of the appeal will have ten working days to issue a written decision, with reasoning. This appeals process may be continued until a decision has been issued by the EVPHS.

- c. The decision of the EVPHS is final and may not be appealed.

## 10. Some key definitions:

“Normal Duty Hours” are specified by the faculty member’s immediate supervisor with the approval of the department chair or the college dean in those colleges that do not have departments. “Normal duty hours” include all of the time normally devoted to fulfilling the obligations of a full-time faculty member.

“Vendor” as used herein, refers to pharmaceutical manufacturers; medical, educational, and research device manufacturers; wound care supply manufacturers; DME suppliers; POS suppliers; and other suppliers of medical, educational, and/or research products, equipment, supplies, and services. This definition explicitly excludes drug wholesalers, pharmacies (corporate, independent, institutional or any other professional practice setting), or pharmacy benefit management companies.

“Vendor-Sponsored Seminar, Promotional Training, or Educational Event” means any seminar, conference, user review group meeting, or other educational session sponsored and hosted directly by a vendor. Included in this definition are all training or educational events provided by any vendor, whether or not the events are explicitly intended to promote its products or services. This definition does not include training provided under a contract with the UNM HSC or any of its component parts to facilitate use of products or services furnished under an existing contract with the UNM HSC or any of its component parts. This category does not include activities or events sponsored by government agencies or educational institutions.

“Honorarium” means any remuneration provided to a faculty member in return for the faculty member’s participation in an event of short duration, such as serving as an invited speaker, reviewer, seminar participant, author, etc.; or attending a conference, convention, meeting, social event, meal or like gathering. Provision of reasonable per diem reimbursements to cover travel expenses are not considered to be honoraria.

“Remunerated Scholarship” In many disciplines scholarly service activities are compensated by payments beyond expenses. In many instances the paying organizations may designate these payments as “honoraria.” Such activities, referred to as “remunerated scholarship” generally relate to research, creative work, clinical support, or public service that is expected in a faculty member’s discipline. Such activities would normally be added to a C.V. and be considered in performance evaluations, including those used to support promotion, tenure, and merit pay decisions. .Examples of the kinds of activities that would be in the category of “remunerated scholarship” include:

- reviewing manuscripts, grant proposals, departments, or programs for governmental, educational, research, or patient care organizations that would not be classified as vendors under the definition given above;

- giving presentations at other educational, research, clinical, or governmental institutions that would not be classified as vendors under the definition given above;
- giving presentations at professional meetings;
- serving on professional organization boards – including editorial boards, task forces, and committees;
- serving as an officer for a local, regional, or national professional organization in one's area of academic specialization;
- providing service to governmental bodies such as peer-review organizations, councils, task forces, advisory panels and the like.

The category of “remunerated scholarship” does not include teaching outside the contracted department for compensation [see Policy C140]. Activities of remunerated scholarship do not count against the 52 day limit specified in Policy C130 unless the Chair or Director finds the extent of such activities threatens a faculty member's ability to carry out his/her regular University duties.