

# Board of Trustees Conflict of Interest

Date adopted: April 2007	Review Date(s): Reviewed 1/2015	Approved by: Board
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## PURPOSE

Board members have a duty of loyalty. Board members act in the best interest of the Hospital, and not their self interest. Conflicts of interest may cause a Board member to breach this duty of loyalty, resulting in personal liability to the Board member and damage to the Hospital. This Policy is intended to ensure that all Board decisions are made solely to promote the best interests of the Hospital and the community which it serves by setting forth the Board's Policy for identifying and resolving conflict of interest situations. This Policy is intended to supplement, and not replace, the Hospital's Code of Conduct and applicable laws governing the conduct of Board members.

## POLICY

Consistent with applicable law and a Board member's fiduciary duties, a Board member shall not participate in any Board discussion, decision or action in which the Board member has a conflict of interest unless such conflict has been fully disclosed and resolved consistent with this Policy and applicable law, including but not limited to I.C. § 59-702 et seq.

## PROCEDURES

1. **Conflict of Interest.** A conflict of interest generally means any situation in which a Board member's official decision, action, participation, recommendation or influence could result in a private benefit to, or adversely affect the private interests of, the Board member, the Board member's immediate family, or any entity in which the Board member or their family has a significant ownership or other beneficial interest. See *generally* I.C. § 59-703(4). The following are examples of potential conflict of interest situations--
  - a. The Board is considering a contract, transaction, or policy that affects the economic interests of the Board member or a member of their family.
  - b. The Board is considering employing the Board member's wife, child, or other family member.
  - c. A Board member has access to confidential information that the Board member could use for personal gain.
  - d. A Board member has a financial relationship with a Hospital vendor or contractor, or the vendor or contractor offers a gift to the Board member.



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- e. Any other situation where a Board member's private interests diverge from the best interests of the Hospital.
2. **Disclosure of Conflict.** A Board member who has a conflict of interest must disclose the existence of the conflict of interest to the Board before receiving confidential information, participating in any discussion or taking any action on the issue that gives rise to the conflict. See I.C. § 59-704. The disclosure must be in writing or otherwise be fully disclosed in the Board minutes. A Board member may seek legal advice concerning whether a conflict of interest exists as set forth below.
3. **Abstention.** Unless and until the Board has waived the conflict, a Board member who has a conflict of interest must not knowingly receive confidential information, participate in any discussion, or take any action relevant to the issue giving rise to the conflict. See I.C. § 59-704. The Board member should ensure that the Board minutes reflect the Board member's abstention.
4. **Board Consideration.** The remaining non-interested members of the Board shall consider and respond to any disclosed conflict of interest situation consistent with this Policy and applicable law. The interested Board member may be excluded from the deliberations.
5. **Waiver.** The Board, acting by vote of a majority of disinterested Board members, may waive the conflict of interest only if the Board determines that the disclosed conflict of interest is insignificant or will not materially impair or adversely affect the interested Board member's duty to act in the best interests of the Hospital. The waiver shall be documented in Board minutes. The waiver shall only apply to the issues or facts that were disclosed relevant to the conflict of interest situation. Failure to fully disclose facts relevant to the conflict of interest may negate the waiver. The Board may withdraw the waiver at anytime and, if withdrawn, the interested Board member shall abstain from future participation or action concerning the issue.
6. **Determining Whether a Conflict of Interest Exists.** Consistent with I.C. § 59-704, as it shall be amended:
  - a. A Board member who believes that he or she may be in a conflict of interest situation may seek legal advice from the Hospital's attorney, the county attorney, or an independent attorney to determine whether a conflict of interest exists.
  - b. If the attorney concludes that there is no actual or potential conflict of interest, then the Board member may rely on the advice and proceed as if no conflict of interest exists. In the event of a challenge, the Board member shall have the burden of proving the advice given by the attorney.
  - c. If the attorney concludes that there is an actual or potential conflict of interest, then the Board member shall prepare a written statement describing the conflict, including a description of the matter required to be acted upon and the nature of the potential conflict. The Board member shall deliver the disclosure to the Board prior to participating in any discussion or action relevant to the issue giving rise to the conflict.



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7. **Application.** This Policy shall apply during the Board member's term on the Board. This Policy shall apply to any discussion, recommendation, vote, participation, or other action that the interested Board member takes in the Board member's official capacity, whether on the Board as a whole, through participation on committee, or through any individual action that the Board member takes in the Board member's official capacity.
8. **Other Laws.** Idaho statutes impose additional requirements on public officials, including Board members, to ensure that they act in the utmost good faith and that they do not misuse their official position. See, e.g., I.C. § 18-1351 et seq.; I.C. § 59-201 et seq.; and I.C. § 59-701 et seq. Board members shall be familiar with and comply with the additional laws.
9. **Violation.** The violation of this Policy may expose the Hospital, the Board, and the individual Board member to civil liability. In addition, a violation of the laws upon which this Policy is based may expose the Board member to criminal liability. See, e.g., I.C. § 18-1351 et seq.; I.C. § 59-201 et seq.; and I.C. § 59-701 et seq. To ensure compliance, to enforce this Policy and to minimize any damage resulting from a Board member's improper conduct, the violation of this Policy shall be grounds for appropriate sanctions against the Board member, including but not limited to exclusion of the Board member from participation in any relevant Board action; suspension of the Board member's service on the Board; termination of Board membership; and/or removal from Board or committee assignments.
10. **Reporting.** Board members shall report to the Board any conflict of interest situations involving Board members so that appropriate action may be taken.
11. **Training.** Board members shall receive training concerning conflicts of interests, this Policy and applicable laws when they are appointed to the Board, and periodically as necessary thereafter.
12. **Certification.** As a condition to their service, Board members shall certify that they will comply with the Board's Conflict of Interest Policy by executing the attached form. Each Board member shall execute an updated certification annually.

### RESOURCES

Bribery and Corrupt Influence Act, I.C. § 18-1351 et seq.

Prohibitions Against Contracts with Officers, I.C. § 59-201 et seq.

Idaho Ethics in Government Act, I.C. § 59-701 et seq.

Office of the Attorney General, Idaho Ethics in Government Manual

# Board of Trustees Conflict of Interest Certification

1. I hereby certify that I have received, read, and understand the Hospital's Board of Trustees Conflict of Interest Policy.
2. I acknowledge and agree to abide by the terms of the Conflict of Interest Policy.
3. I hereby certify the foregoing [check appropriate box]:

I am not aware of any circumstance, interest or relationship that I have that might reasonably be expected to create a conflict of interest for me within the meaning of the Conflict of Interest Policy.

The following circumstances, interests, or relationships might reasonably be expected to create a conflict of interest for me within the meaning of the Conflict of Interest Policy:

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4. I will promptly disclose any additional conflict of interest situations that may arise consistent with the Conflict of Interest Policy.

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Name of Board Member

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Signature

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Date