

Number: 5.23

DESCRIPTION:	Conflict of Interest/Conflict of Commitment Policy Concerning Consulting and Clinical Practice		
RESPONSIBLE:	DEAN'S OFFICE		
PURPOSE:	The policy provides guidelines for the SMHS to implement UND's requirement that outside activities such as consulting and clinical practice are disclosed and any conflicts of interest or conflicts of commitment are avoided where possible, or otherwise disclosed and managed.		
FREQUENCY OF REVIEW:	Annually		
CREATED:	June 7, 2023	REVISED:	June 1, 2024

University of North Dakota School of Medicine and Health Sciences

Conflict of Interest/Conflict of Commitment Policy Concerning Consulting and Clinical Practice

According to the University of North Dakota's (UND) Faculty Handbook, a full-time member of the UND faculty and administration ("employee") is first and foremost a member of UND. UND requires that outside activities such as consulting and clinical practice are disclosed and any conflicts of interest or conflicts of commitment are avoided where possible, or otherwise disclosed and managed. Therefore, any outside employment, consulting (paid or unpaid), and/or clinical practice must be disclosed to the chairperson of the employee's department and the School of Medicine and Health Sciences ("SMHS") dean.

UND indicates that an employee's involvement in consulting, compensated or uncompensated, should not exceed four days in any one month, and should be directly related to the employee's area of professional expertise, and/or self-development in his or her profession. The (up to) four days of consulting must not interfere with an employee's UND position and, as indicated, must be disclosed and approved.

Consulting and clinical practice, whether compensated or not, by part-time employees outside the scope and hours of the employee's UND employment are exempt from this policy. However, part-time employees contemplating consulting or clinical practice within the scope and hours of their UND employment shall follow the policies and procedures outlined below for full-time employees.

Please note that this policy and subsequent forms do not replace the University's Conflict of Interest Policy and forms; therefore, both UND and SMHS policies need to be followed and any associated paperwork needs to be executed, as appropriate, for each policy.

Consulting

Consulting is defined as a professional activity related to the employee's field or discipline in an area where he or she has a specific area of expertise; this can be a paid or unpaid relationship. Generally, consulting refers to a professional using their expertise to assist a third party with a specific project or challenge, typically for a defined and non-permanent contractual period, in exchange for compensation.

Clinical Practice

Clinical practice is defined as activities involving direct patient care whether compensated or not, including those involving medical laboratory testing, post-mortem examination, medical directorship, leadership services in clinical programs, and forensic investigation activities. Clinical activities are considered to be within the scope of employment regardless of how or where they are rendered. Clinical practice differs from consulting in that it involves direct patient care. The SMHS encourages clinical practitioner employees to engage in patient care as appropriate in support of the SMHS's purpose, to assist North Dakota in addressing workforce demands, to maintain clinical competence, fulfill certification requirements, and share expertise with other healthcare providers. Refer to the MSP policy for further information.

Effective date

The effective date of this policy is July 1, 2023

Process for disclosing conflicts of interests and conflicts of commitment

- **Guidelines:**
 - **Consulting:** All full-time employees (and certain part-time employees as specified above) must disclose and seek prior approval of all consulting engagements, regardless of when the consulting activity occurs.
 - **Clinical Practice:** All full-time (and part-time as specified above) practitioner employees must disclose and seek prior approval if intending to engage in clinical practice, regardless of when the clinical activity occurs. Once approved, the clinical activity will be incorporated into the practitioner employee's position description and percent effort form (i.e., "Page 2"). Full-time practitioner employees practicing within the established safe harbor of 24 or less days per academic year may request of their supervisor to participate in the SMHS Medical Service Plan (MSP) and if approved, this work will be added to their official duties and they need not engage in further disclosure. Conversely, full-

time practitioner employees practicing 24 or less days per academic year may elect not to participate in the MSP for this purpose but then must disclose these activities as described below.

The clinical income earned outside of the safe harbors listed below will be managed through the MSP and may be used to fund or incentivize the salary of the practitioner employee. Full-time practitioner employees practicing within the safe harbor of 24 or less days per academic year may request to participate in the MSP. MSP is the vehicle for the SMHS to obtain compensation from clinical care organizations or others (e.g., hospitals, clinics) for clinical or other services related to a practitioner employee's professional skills. The distribution of revenues so generated is administered through the MSP and distributed to the practitioner employee, the respective department, and the SMHS.

- **Disclosure:** All full-time (and part-time as specified above) employees shall disclose all consultant work/clinical practice activity to their supervisor. The supervisor will consider the request and if it meets with UND and the SMHS's support of community needs and/or is for the greater good, the supervisor may agree to support the activity. The employee must complete the Consulting Form/Clinical Practice Form, as appropriate, and submit it to the supervisor/department chair, appropriate associate dean or senior associate dean, and then to the dean.
- For approved clinical practice activity, the chair shall discuss with the associate dean for finance and administration the appropriate pathway to engage in contract adjustment as appropriate and update the employee's percent effort form. Once the clinical activity is incorporated into the percent effort form, subsequent disclosure under this policy is not required. The employee must also disclose the consulting activity/clinical practice activity on UND's conflict of interest form as appropriate.

Safe Harbors (activities that are outside of the consulting/clinical practice expectations outlined herein):

- **Implicit:** Activities that are pre-approved, incorporated explicitly into the "Page 2" effort reporting that is part of the employee's UND contract, and a commonly expected part of the duties of a faculty or staff member at an institution of higher learning (such as participating in national grant review groups or, for clinicians, attending continuing medical education (CME) programs) are not considered to constitute consulting or clinical practice under the provisions of this policy.

- **Consulting:** Publication-related activities or professional service such as to regional or national associations, governmental review panels, or professional journals, etc., are not considered consulting activity.
- **Clinical Practice:** Caring for a patient in an emergency situation by a clinician is expected as permitted by law and is not limited by this policy.
- **Clinical Practice:** Clinician faculty may participate in patient care for up to 24 days per academic year without being included in the SMHS MSP under the following premise: 12 or more of the 24 days of clinical practice must occur on UND holidays, weekends, or outside of typical UND SMHS business hours. The clinical practice must not interfere with the employee's UND position, must be disclosed and approved, and the employee shall assume all risks of functioning as an independent private clinician, including the responsibility of purchasing professional liability insurance.
- **Miscellaneous Information:**
 - For the purpose of this policy, any clinical practice greater than five consecutive hours during a regular University business day is considered one full day of clinical practice. A half-day of clinical practice is considered five or less consecutive hours, with the understanding that a similar or greater amount of time will be devoted to UND activities during a regular, full business day. Practice schedules may not be adjusted to include gaps in practice time as a way to circumvent the total time worked.
 - For the purpose of this policy, the 24 days may be applied as 192 hours (24 days x 8 hours) when all clinical practice occurs outside of University regular business hours.
 - Vacation days may not be used to engage in clinical practice to supersede the 24 days per academic year safe harbor.