

National POLST Paradigm Conflict of Interest Policy Frequently Asked Questions

Below are some questions and answers about the National POLST Paradigm's [Conflict of Interest \(COI\) Policy](#) that are hopefully helpful. If you have any questions not addressed here, please either email [Amy](#) or ask in the [forum](#).

1. What is a conflict of interest (COI) policy?

Strong conflict-of-interest policies are essential documents for non-profit organizations. They should cover two types of relationships:

- The entity's relationships with other organizations. A policy is needed to provide a framework by which to evaluate all potential engagements (see definition in #2) an entity may be offered in order to determine if the opportunity has an actual or perceived inappropriate benefit for one party. The National POLST Paradigm Task Force (National Task Force) approved a [COI policy](#) governing the National POLST Paradigm's relationship with other entities; that is the policy these Q&As address.
- The entity's governing board members' relationships with other organizations. This policy provides a framework used to evaluate potential board members as well as, once the member is established, manage any actual, perceived or potential conflict-of-interest in any transaction the member may vote on, oversee, or be otherwise involved in. For the National POLST Paradigm, this policy will be completed as part of the organizational restructure contemplated by our strategic plan (see Question 10 for more information).

2. What are "engagements"?

The National Task Force wanted the COI to be broad enough to cover different types of relationships the National POLST Paradigm may want to consider with other entities. The term "engagement" is used and is defined in our policy as:

"grants, contracts and other transactions that provide for mutual legal obligations and acceptance of donations, including money, property, in-kind contributions and all other kinds of support. Engagement also includes strategic partnerships, sponsor recognition, joint messaging, product certification or endorsement, and cause marketing. Engagement does not include routine commercial transactions with vendors or the sale of goods in the open market. If there are doubts about whether a relationship would be covered by this policy, the question should be referred to the Governing Board Chair and the Executive Director at the earliest possible opportunity."

3. What is the philosophy of our COI Policy?

The National POLST Paradigm was founded in an ethical framework and, therefore, has always strived towards the highest ethical standards. Recognizing that the health care field is constantly evolving, our goal in crafting our COI policy was to develop a versatile framework and process that could be used to evaluate every proposed opportunity - today and in the future.

With this policy, the National Task Force made a commitment to:

- Transparency. The National Task Force wants increased transparency about who and what entities are engaged with the National POLST Paradigm.
- Inclusion. Each state program is established independently, is housed in different organizations and uses different internal policies and procedures. Yet, each state program is also committed to supporting and implementing the National POLST Paradigm. The National Task Force appreciates all support (in-kind, volunteer, financial, etc.) provided by state POLST Programs and wanted to ensure its COI policy let all state POLST Programs feel included under the National POLST Paradigm umbrella.

4. Are state POLST Paradigm programs required to follow this COI policy?

No; this policy applies only to the National POLST Paradigm. The National Task Force encourages each state POLST Program to have its own COI policy, reflecting its own values and philosophies. Programs are free to copy this COI policy in part or in full.

Any COI policy, however, should be thoughtfully drafted and provide the state POLST Program leadership guidance about the appropriateness of engagements and of the various players and optics surrounding any engagement. A poorly drafted policy can easily expose a state POLST Program (and, by extension, the National POLST Paradigm) to criticisms.

5. How was our COI Policy drafted, reviewed and approved?

The National Task Force started its strategic plan in 2015 and its transition process from OHSU in 2016; creating a robust COI policy to support the National POLST Paradigm was part of both projects. Our goal was to have a robust COI policy in place by the time the National POLST Paradigm left OHSU so that there would be clear guidance about engagements (see definition at top) going forward.

Elements of the COI policy were discussed among National Task Force members as early as February 2015. Once the strategic plan was finalized on May 4, 2016, the COI policy was the first formal policy to be drafted. The Core Group, a group of National Task Force members who drafted our strategic plan and who have/are helping with our transition from OHSU, created the first draft version of the policy. The full National Task Force discussed the draft policy during a few meetings. Before the final National Task Force vote, the policy was vetted with our then Media Consultant, Kris Austin, regarding the optics of the policy.

The COI policy was approved by the National Task Force on February 10th, 2017.

6. What policy(-ies) were we using when the National POLST Paradigm was housed at OHSU?

The National POLST Paradigm was housed in OHSU's Center for Ethics in Health Care (CFE) from 2004-2017). During that time two CFE policies applied to the National Task Force:

- A policy that pre-emptively defined relationships as “acceptable”, “unacceptable”, or “may be acceptable” based on the individuals’ role and using 10 pre-identified situations. This policy was used to identify task force members’ conflict of interest and the National Task Force’s relationships with other entities. This applied from 2004 - 2017.
- A memorandum of understanding with the CFE that prohibited the National POLST Paradigm from accepting any donations from “health care related commercial entities”, defined as “any entity (other than health systems providing care) that produces, markets, resells, or distributes health care goods or services consumed by, or used on, patients, which includes insurance companies, pharmaceutical manufactures, device makers and other health care product suppliers.” This applied only from 2015 - 2017.

If any question arose related to either policy, the CFE (its Director and governing bodies) made the final decision about when an individual or engagement violated the COI policy without National Task Force input.

7. Why didn't the National Task Force copy OHSU's Center for Ethics in Health Care (CFE) Policy?

There are four reasons the National Task Force didn't copy CFE policies.

First, given the changing landscape of entities and players in the health care field—particularly in palliative and end-of-life care—the National Task Force felt establishing framework by which to evaluate each opportunity would serve us better than pre-emptively attempting to identify and judge all potential situations or opportunities. With an established framework and process, the National Task Force is positioned to thoughtfully consider the benefits, value and risks and decide how to proceed on the specific merits of each proposed opportunity.

Given changes in entity structures, including the rise of hybrid entities, over the last twenty years, this framework is especially important now. There were concerns about the CFE's policy limiting the National Task Force's ability to partner or collaborate with organizations (some falling under the CFE's “health care related commercial entities” definition). The ability to collaborate with these new partners working on training, policies and practices relative to POLST processes (e.g., processes within health systems, incorporating the POLST process and form into electronic medical records, etc.) is vital. The National Task Force felt it needed the ability to adapt to new entity structures, and to evaluate and, if appropriate, collaborate with new partners to educate, promote and preserve the fundamental policies of the POLST Paradigm. The increased flexibility allowed under this COI Policy will help us better protect the POLST Paradigm.

For example, there is considerable interest in integrating POLST forms into electronic health records (EHR) and registries; the CFE's policy restricted us from having a relationship with “health care related commercial entities” such as Epic or Cerner, who are working on this project now. The National POLST Paradigm is at a significant disadvantage if we cannot work with EHR vendors since there is a lot of work to be done to properly integrate the POLST process into these systems.

Second, the National Task Force wanted to ensure our COI policy honored each state POLST Program and allowed them the opportunity to support the National POLST Paradigm if they chose. Under the CFE policy, this was impossible. For example, during the 2014 challenge when the National Task Force was raising funds to hire a consultant to help with our strategic plan, a few states who wanted to donate were unable to do so because they were housed in a “health care related commercial entity”. The prohibition put those state leaders in a position of needing to donate personally and denied the state POLST Program the opportunity to support (and be publicly recognized as supporting) the National POLST Paradigm. The COI Policy is inclusive and allows all states to participate equally in supporting the National POLST Paradigm.

Third, the National Task Force wanted to avoid past criticisms and increase transparency about decision-making. Over the last couple of years, Amy (National POLST Paradigm Executive Director) had received criticism about inconsistencies between the CFE policies and National Task Force practices. For example, while cash donations were unacceptable from “health care related commercial entities”, significant in-kind and volunteer contributions were viewed as acceptable in building and shaping the National POLST Paradigm from inception. Explaining why a “health care related commercial entity” cannot donate financially but can participate in making programmatic decisions impacting the entire organization is nearly impossible. Another example was, during the 2014 fundraising challenge, one state that couldn’t donate because of where they were housed, donated through a foundation that was acceptable under the CFE policy. The National Task Force wanted consistency and full transparency with its new policy.

Fourth, the National Task Force wanted to be able to choose its own leaders, based on their fitness and qualifications for the position. Under the CFE policy the National Task Force was not allowed to choose any state leader housed at a “health care related commercial entity” to serve in a National Task Force leadership position (Chair, Vice Chair, Secretary or Treasurer).

8. How did OHSU’s Center for Ethics in Health Care (CFE) define “health care related commercial entity” in its policy?

The CFE COI Policy defined “commercial health care related entity” as “Any entity (other than health systems providing care) that produces, markets, resells, or distributes health care goods or services consumed by, or used on, patients.” If any question arose related to either policy, the CFE (its Director and governing bodies) made the final decision about when an individual or engagement violated the COI policy without National Task Force input.

In 2015, when negotiating a Memorandum of Understanding for the separation from OHSU, the National Task Force asked for a more specific definition and agreed to define “health care related commercial entity” as “any entity (other than health systems providing care) that produces, markets, resells, or distributes health care goods or services consumed by, or used on, patients, which includes insurance companies, pharmaceutical manufactures, device makers and other health care product suppliers.” This applied only from 2015 -2017.

The National Task Force moved away from defining this term in the COI Policy for two reasons. First, given changes in entity structures, including the rise of hybrid entities, it is harder to define what a “commercial entity” is- and harder to be consistent in making those determinations. Additionally, the CFE definitions fail to recognize that some health systems providing care may have greater negative financial incentives that an entity that falls within the “health care related commercial entity” definition. Second, rather than needing to define and label an entity and determine via a matrix if the engagement is okay

(CFE Policy), the National Task Force wanted a process that evaluated the totality of the engagement before making a determination. This evaluation includes considering the mission and incentives of any entity(s) wanting to engage with the National POLST Paradigm and focuses more on the proposed engagement rather than the entity, thereby eliminating the need to define or label.

9. What is different from OHSU's Center for Ethics in Health Care Policy?

The biggest difference is that the National Task Force created a framework by which it could evaluate potential engagements rather than attempting to identify and pre-emptively judge opportunities or entities. With the established framework and process in our COI policy, the National Task Force can thoughtfully consider the benefits, value and risks and decide how to proceed on the specific merits of each proposed engagement. This framework should allow for stronger partnerships with more organizations as well as more quality assurance opportunities.

10. Are there any opportunities that are automatically non-starters under the COI Policy?

Yes. Our guiding principle is that any engagement opportunity **must** be committed to our mission, vision, essential values and support our core programmatic objectives articulated in the Paradigm's strategic framework. Additionally, the COI Policy clearly states, "The National POLST Paradigm will not enter into any engagement that compromises its integrity, violates any federal, state or local law, is financially unsound, could expose the National POLST Paradigm to unacceptable liability or other adverse consequences, or is contrary to the goals of the National POLST Paradigm."

If the engagement opportunity doesn't match each of these requirements, it is a non-starter. Additionally, it is the duty and obligation of each Governing Board member (currently our Executive Committee) to evaluate each engagement opportunity, taking all these considerations into account, when deciding.

11. Who is on and what is the Governing Board?

All 501(c)(3)s (non-profit organizations) are required to have a board overseeing the legal and financial aspects of the non-profits. The National POLST Paradigm is a program of Tides, which is a 501(c)(3), so Tides ultimately has this responsibility. However, the National Task Force's strategic plan called for the development of a Governing Board like that of an independent 501(c)(3). It will have 9-12 individuals who have expertise in a variety of areas (legal, financial, business strategy) and who will be conversant about the POLST Paradigm (we will be providing education on the POLST Paradigm to ensure this). The Governing Board will be responsible for the sustainability of the National POLST Paradigm and working with the Plenary Council (made up of one representative from each state participating in the National POLST Paradigm, whether or not they are endorsed), which is responsible for the programmatic direction of the National POLST Paradigm.

Establishing the Governing Board takes time. Before recruitment starts, the National Task Force needs to make sure we have: an appropriate COI Policy for determining who is eligible to serve; identified required Governing Board member qualifications; and policies to govern the relationships between the Governing Board, Plenary Council and Executive Director. The National Task Force have identified a consultant to help with this project and are hoping to have the Governing Board in place by early 2018.

12. Why is transparency important and how is transparency being increased?

To reduce or avoid criticisms that the POLST Paradigm is a tool used to reduce costs or is a cost-saving measure, it is important the National POLST Paradigm be transparent about all our engagements: not just direct financial support, but what relationships we enter into, what individuals or entities have input on our mission, vision, essential values and core programmatic objectives and goals. Our goal is to avoid having, or appearing to have, a conflict where the POLST Paradigm can be seen as a cost-saving tool for insurance companies.

We have posted our COI policy [online](#) and who we've received funding from [here](#). The National POLST Paradigm plans to continue to share all its engagement information and consider other ways to be transparent. For example, we are going to post collaborative information online (like [here](#)). If you have suggestions, please let us [know](#).

13. Is the National POLST Paradigm tracking relationships and funding sources?

Yes. If anyone requests who we work with or who we've received funding from, we can provide that information.

14. How will the National Task Force's Executive Committee (or, in the future, Governing Board) share what engagement opportunities it is considering (or has considered)?

The process of evaluation is still new, but we may use our forum to share or seek information about engagement opportunities. Any entity with whom we do decide to have a relationship with or accept funding from will be public information (likely posted online, see Question 10 above).

15. How is the National POLST Paradigm currently funded?

While almost all the National POLST Paradigm funding is from grants, a small amount comes from individual donors, either personal donations or donations through employers by members of the National Task Force. If you wish to donate, please go [here](#).

16. Does the National Task Force anticipate industry sources becoming the mainstay of support?

No. While there is no formal policy in place, the recommendation of the Core Group to the National Task Force was that industry support to remain below 50% of the overall financial portfolio for the National POLST Paradigm.

17. Can this COI Policy be revised?

Yes. Like all National POLST Paradigm policies, the COI policy may be revised as appropriate. Please contact [Amy](#) if you have any questions about the policy or suggestions on how we may improve it.