

## **VOLUNTEER CODE OF CONDUCT AND CONFLICT OF INTEREST, ASSIGNMENT OF RIGHTS, DISCLOSURE POLICY**

*Approved by Council, 2/04; Revised by Executive Committee, 12/05; Revised by Council, 1/14/11; Reaffirmed by Council 9/10/11*

### **Volunteer Code of Conduct and Conflict of Interest**

#### **Preamble**

The Society of Critical Care Medicine (“SCCM” or the “Society”) is a not-for-profit, tax-exempt Society formed to promote, develop, educate, and otherwise improve the care of the critically ill and injured. SCCM’s principal membership class consists of individuals engaged in the practice of critical care. This document serves as a code of conduct for volunteers in their capacity as SCCM volunteers. The principles and requirements that comprise the Code and the Procedures are based upon, and are designed to ensure, full compliance by SCCM and its officers, directors and volunteers with the fiduciary duties imposed upon such individuals by state corporate law, the federal tax code’s prohibition on private inurement and private benefit and other requirements of federal tax exemption, common law due process requirements, federal and state antitrust and unfair competition law, state tort law, and other legal precepts and prohibitions. Volunteers affirm their endorsement of the Code and acknowledge their commitment to uphold its principles and obligations by accepting and retaining volunteer positions.

#### **Code of Conduct**

Volunteer members of the Society shall at all times abide by and conform to the following code of conduct in their capacity as volunteer members.

Volunteer members must exercise a **duty of care** to act in a reasonable and informed manner when participating in the decision-making process and when acting in an oversight capacity of the Society’s management. The duty of care includes regularly attending all scheduled meetings, exercising independent judgment based solely on what is in the Society’s overall best interest, irrespective of other entities with which the leader or volunteer is affiliated or sympathetic, or to which he or she owes the appointment. Further this duty requires Society leadership to act in accordance with the Society’s articles of incorporation, bylaws and policies, as well as applicable regulations.

Volunteer members must exercise a **duty of loyalty** that requires performance of duties in good faith and in the best interests of the Society, rather than in one’s own interests. The duty requires that all volunteers be conscious of the potential for conflicts of interest and act with candor and care in dealing with such situations and that all volunteers treat as confidential all matters involving the Society until there has been general public disclosure.

Volunteer members must exercise a **duty of obligation** when they agree to serve as an SCCM representative to external organizations or to represent the Society in an official capacity with individuals, members, vendors, companies, non-profit groups or other entities. The duty of obligation requires Society volunteer representatives to articulate and support the decisions of the Society’s leadership and to represent the reasons for such decisions, irrespective of any individual interests, opinions or positions. This duty is not meant to preclude or dissuade one from voicing concerns to the Society’s elected leadership or from participating in deliberative processes for which one may have been elected, but rather to ensure that a Society representative provides a clear message to others stating the Society’s official position and reviewing the deliberative processes that lead to such decisions, without regard to one’s own personal opinions or bias. If at any time, a representative of the Society feels unclear on the Society’s official position on a matter or is uncomfortable carrying out this duty, the matter should be discussed with the Society’s elected President.

Volunteer members must exercise a **duty of disclosure** as the importance of position is recognized and that as a result of that position, any felony charges, restrictions, suspensions or revocations of licenses or hospital privileges may negatively impact the Society. Therefore, volunteers must to

disclose any of these to the SCCM President. For good cause, and with prior notice to the member whose information is at issue, such information may be disclosed to the Council. Volunteer participation in Society activities may be limited or prohibited as a result of these disclosures.

Volunteer members will exercise proper authority and good judgment in their dealings with Society staff, suppliers and the general public and will respond to the needs of the Society's members in a responsible, respectful and professional manner.

Retiring volunteer members will, at the Society's request, promptly return to the Society all documents, electronic and hard files, reference materials, and other property entrusted to the volunteer member for the purpose of fulfilling his or her job responsibilities. Such return will not abrogate the retiring volunteer member from his or her continuing obligations of confidentiality with respect to information acquired as a consequence of tenure as a volunteer.

In addition, volunteers shall:

Avoid placing (and avoid the appearance of placing) one's own self-interest or any third-party interest above that of SCCM; while the receipt of incidental personal or third-party benefit may necessarily flow from certain SCCM activities, such benefit must be merely incidental to the primary benefit to SCCM and its purposes;

Not abuse their position by improperly using their volunteer position or SCCM's staff, services, equipment, materials, resources, or property for their personal or third-party gain or pleasure, and shall not represent to third parties that their authority as a volunteer member extends any further than which it actually extends;

Not engage in any outside business, professional or other activities that would directly or indirectly materially adversely affect SCCM;

Not engage in or facilitate any discriminatory or harassing behavior directed toward SCCM staff, members, volunteers, officers, directors, meeting attendees, exhibitors, advertisers, sponsors, suppliers, contractors, or others in the context of activities relating to SCCM;

Not solicit or accept gifts, gratuities, trips, honoraria, personal property, or any other item of material value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to SCCM without fully disclosing such items to the Executive Office;

Not provide goods or services to SCCM except as detailed in the Policy on Member Participation as a Vendor to the Society;

Not persuade or attempt to persuade any employee of SCCM to leave the employ of SCCM or to become employed by any person or entity other than SCCM; and

Not persuade or attempt to persuade any member, exhibitor, advertiser, sponsor, subscriber, supplier, contractor, or any other person or entity with an actual or potential relationship to or with SCCM to terminate, curtail or not enter into its relationship to or with SCCM, or to in any way reduce the monetary or other benefits to SCCM of such relationship.

#### Conflict of Interest

As the Council, volunteers, speakers, and staff of SCCM may be subject to potentially compromising ethical situations and potential conflicts of interest, they should not only be impartial and honest but far beyond the reach of suspicion.

A close and constructive relationship and effective collaboration between healthcare professionals and the pharmaceutical, device and medical equipment industries have become essential in research and education for the improved treatment of patients and for further medical progress. Because the greatest potential for conflicts of interest involve relationships with industry and similar organizations, the present guidelines focus primarily on these relationships but other noted potential conflicts are no less important.

A conflict of interest arises whenever a covered individual's activities are in opposition to, detract from or in some manner might become detrimental to the purposes of SCCM as described in its Articles of Incorporation, Bylaws, mission statement, or policies and procedures.

A conflict of interest may exist whenever a covered individual is in a position to directly or indirectly benefit him- or herself, a family member(s), other individuals, or another organization with which the individual is affiliated through the use of their role in the Society.

Healthcare professionals who are not company employees should not publicly endorse a company's product in the advertising media.

It is the responsibility of the Executive Committee, members of the Council, Editors-in-Chief, CEO, and any committee or other body that makes decisions for the Society to recognize, identify, disclose, and resolve actual or potential conflicts of interest involving matters that come before them or bodies on which they sit. Such individuals shall disclose all relevant information regarding the conflict to the body and shall remove themselves from all discussion and voting on the matter. Committees must review completed disclosure forms for financial and uncompensated relationships annually or whenever new information is submitted by members of the committee. If these conflicts cannot be resolved at the committee level, they will be forwarded to the Conflict of Interest Oversight Committee.

The Committee shall resolve all conflicts of interest prior to the activity through one or more of the following steps:

Abstain from discussions related to the conflict

Abstain from voting on a matter related to the conflict

Requesting reassignment to a committee that will not result in a conflict

Divestiture of the relationship

Each committee chair will regularly remind the committee participants to disclose conflicts or potential conflicts and review the resolution procedures noted above. The resolution of each conflict shall be recorded in the notes or minutes of the meeting.

#### Key Leaders

Key Society Leaders, defined as the President, President-elect, Secretary, Treasurer, Past President, Chancellor of the Board of Regents, Editors-in-Chief of the journals, and CEO, may not have a direct financial or uncompensated relationship with companies during his or her term of service in that capacity. However, a Key Society Leader may accept compensation for serving on an independent Data Safety Monitoring Board (DSMB) in a company study. Uncompensated services, research support, DSMB participation, compensation, stock ownership, patent royalties and other permitted relationships should nevertheless be disclosed to the Society and to the public.

A **direct financial relationship** with companies is defined as a compensated relationship that generates an IRS Form W-2 or 1099, or is taxable as income in any amount for services provided or ownership interest in a company. Mutual funds and other co-mingled investments in which the Key Society Leader has no direct control is not considered a direct financial relationship. Key Society Leaders may accept research support from companies as long as grant money is paid to the institution (e.g., academic medical center) or practice where research is conducted, not to the individual.

An **uncompensated relationship** is a formal documented relationship with a company for which the individual receives no financial benefit for services provided. This includes, but is not limited to, diverting payment for services to charitable organizations.

A **company is a for-profit entity** that develops, produces, markets, or distributes drugs, devices, services or therapies used to diagnose, treat, monitor, manage, and alleviate health conditions. This definition is not intended to include non-profit entities, entities outside the healthcare sector, or entities through which members provide clinical services directly to patients.

Any direct financial or uncompensated relationships with companies by Key Society Leaders in place

on or before January 14, 2011, are exempted from this policy. However, no new direct financial relationships between companies and Key Society Leaders are possible after this date.

#### Conflict of Interest Oversight

A Conflict of Interest (COI) Oversight Committee will be formed as needed to review and resolve conflicts of interest that arise and are not resolvable at the committee level or whenever there has been a complaint by an individual member (whistleblower). The Committee will be comprised of the Executive Committee and two additional individuals appointed by the SCCM President who do not have a direct relationship, financial or otherwise, with companies as defined in the Key Leaders section of this policy.

#### Conflict of Interest Whistleblower Policy

A whistleblower, as defined by this policy, is a member who reports an activity that he/she considers to be in violation of the SCCM conflict of interest policy. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; the Conflict of Interest Oversight Committee is charged with these responsibilities.

Each volunteer has an obligation to report matters to the SCCM President or CEO if they suspect violations of the conflict of interest policy have not been adequately addressed by the committee on which she/he serves.

The Conflict of Interest Whistleblower Policy is intended to encourage and enable volunteers to raise concerns related to conflicts of interest within the organization for investigation and appropriate action. With that goal in mind, no volunteer who, in good faith, reports a concern shall be subject to retaliation. Moreover, an employee or volunteer who retaliates against someone who has reported a concern in good faith is subject to discipline up to and including termination of employment or dismissal from the volunteer position.

### **Assignment of Rights**

#### Works Created for the Society

The Society encourages the members of its Council and its volunteers to participate in the creation and development of creative and useful works in connection with their service to the Society. Through participation in the Society, one may -- either individually, through committees, and/or in conjunction with SCCM staff and/or outside consultants -- participate in the creation and development of works that are subject to copyright protection. Volunteers agree that all such works created, in whole or in part, in connection with or related to Society membership (collectively, the "Works") shall be considered specially commissioned works made for hire in accordance with the provisions of the copyright Act of 1976, as amended, and shall be owned by SCCM. If the Works are not within the legal definition of a work made for hire, but are ones which are being or have been prepared for the benefit of SCCM, the individual does agree to and hereby does assign to SCCM ownership of all rights, title and interest in the Works in all languages and in all media now known or later developed. SCCM grants the creator a license to use the ideas contained in the Works for non-commercial purpose. The creator represents and warrants that the Works do not infringe upon or otherwise violate any third party's rights, including without limitation intellectual property rights, that the Works do not plagiarize third party works, that the Work do not libel or slander any third party, and that the Works are not the subject of any litigation or any claims or disputes which may give rise to litigation. The creator agrees to and hereby does assume full responsibility for claims to the contrary.

#### Works Previously Created

As a participant in SCCM activities, a volunteer may have the opportunity to present materials that have been developed previously, or to include those materials in compilations or derivative works developed for the benefit of SCCM. By presenting, including or otherwise contributing these

materials at SCCM activities or including them in SCCM compilations or derivative works, the creator represents and warrants that they are the owner of the copyright in these materials. As the copyright owner, the creator conveys to SCCM a non-exclusive royalty-free license and right to adapt and/or reproduce the materials and the creator's personal name, image or likeness in any media now known or later developed, including without limitation handout, flyer, book, electronic, or other form. Further, the creator understands and agrees that SCCM will use the work to carry out its charitable mission, that SCCM may distribute and/or sell the compilations or derivative works or portions thereof in other SCCM projects and that SCCM may distribute and/or sell the compilations or derivative works. SCCM will own the exclusive copyright in any products or publications it creates or has created, which are derivative in full or in part from the creator's materials. However, whenever materials are used in this fashion, the original author will receive full authorship credit for the contribution and will have editorial control over the portions of the final version taken from their work, authorization for which the creator agrees not to and shall not unreasonably withhold. SCCM's right to publish, adapt, distribute and sell and/or allow others to do the foregoing for, previously developed work shall be applicable to SCCM but does not preclude the author's ownership right in the original work or the right to use the materials in any way seen fit. The creator represents and warrants that their materials do not infringe upon or otherwise violate any third party's rights, including without limitation intellectual property rights, that the materials do not plagiarize third party works, that the materials do not libel or slander any third party, and that the materials are not the subject of any litigation or any claims or disputes which may give rise to litigation. The creator agrees to and hereby does assume full responsibility for any claims to the contrary.

#### Government Employees

SCCM realizes that government employees cannot assign rights and work prepared by a government employee as part of his or her official duties. This is called a "work of the U.S. Government" and is not subject to copyright.

#### **Volunteer Disclosures**

As a sponsor accredited by the Accreditation Council for Continuing Medical Education (ACCME), the Accreditation Council of Pharmacy Education (ACPE), and others, the Society of Critical Care Medicine must ensure balance, independence, objectivity, and scientific rigor in all its individually sponsored or jointly sponsored educational activities. All committee members participating in an SCCM sponsored activity are required to disclose to SCCM their relevant financial relationships. Please note that an individual has a financial relationship if he/she has a financial relationship in ANY amount occurring in the last 12 months with a commercial interest whose products or services are discussed in the Society activity over which the individual has control. Financial interests or other relationships can include such connections as grants or research support, employee, consultant, major stockholder, paid member of speaker's bureau, etc. The intent of this disclosure is not to prevent a member with a financial or other relationship from making contributions to the Society, but rather to help assure that he or she provides unbiased and balanced contributions.

An individual who refuses to disclose relevant financial relationships will be disqualified from volunteer activities and cannot have control of, or responsibility for, the development, management, presentation, or evaluation of the volunteer activity. Volunteers will be asked to complete an online Volunteer Disclosure Form each year prior to the Annual Congress and when material changes occur.

Any person disclosing potential conflicts must agree to work with the Society towards resolution as disclosures or disclaimers alone are not sufficient mechanisms by themselves to resolve conflicts of interest. SCCM educational offerings are held to a higher standard than simple disclosure in assuring independence from commercial influence. It is necessary for all parties to work together towards resolution.