

## **NASS Conflict of Interest Review Panel Protocol**

*Adopted by NASS Board of Directors, February 2009*

### **Overarching Principles Guiding Conflict of Interest (COI) Evaluation**

NASS regards its members as men and women of high integrity and ethical standards, and expects them to act accordingly. Occasionally, a member may develop financial involvements and/or other relationships with outside entities that pose conflicts of interest. Members are expected to appropriately disclose these interests, as previously set out in the NASS Disclosure Policy. It is the intent of NASS to resolve or manage such conflicts through the application of a set of operating principles, in a manner that balances the benefits accrued to the member from these arrangements and the risks to the organization and its members.

Appropriate COI management promotes and maintains the trust of the public in the organization and its mission by protecting members, colleagues, staff, patients, and the public from the negative consequences associated with a COI.

The COI Review Panel (COIRP) reviews financial interest disclosures, other society relationships and other non-financial disclosures submitted by the membership and renders reasonable decisions as to whether these financial or management interests could directly and significantly affect the involved party's ability to maintain unbiased, ethical interactions. If a conflict is deemed to exist, the Panel will work with the party to manage, minimize or eliminate any actual COI. All committee/task force appointments are considered contingent upon COIRP review; an invitation to serve may be revoked as a result of COI disclosure at the discretion of the COIRP in concert with the Committee/Task Force Chair and Council Director overseeing the position in question. The COI Review Panel consists of seven members with various specialty backgrounds, who have agreed to review these issues and to abide by NASS' Fiduciary Responsibility Rules. They will have been vetted at the time of appointment by the NASS Executive Committee. COIRP members are classified as Level 1 in the *NASS Policy on Leadership COI*. The disclosures submitted by COIRP members will be a matter of record, available for review by any NASS member serving as a complainant or respondent to a case brought before the Panel. All decisions and recommendations by the COIRP will be by a majority vote of those COIRP members who participated in that particular review. Five members of the Panel will constitute a quorum.

A conflict of interest review is mandatory for all members of the presidential line, as well as certain Council or Committee/Task Force Chairs/Members as delineated in the *NASS Policy on COI in Leadership Positions*. A request for review may be brought to the attention of the COI Review Panel (COIRP) either:

- a) as a service to the NASS BOD, council chairs, and committee/task force chairs, to vet potential candidates for offices within the organization.

Committee/Task Force chairs who have concerns regarding the COI of potential new committee/task force members may submit the member and his/her COI to the COIRP for review.

b) by a member seeking advice on his or her own relationships as they relate to NASS, or

c) by a member of NASS who believes an undisclosed, inadequately disclosed, or unmanaged COI may exist for a fellow NASS member.

#### **A. Process for Candidates Being Considered for Leadership Positions:**

1. The COIRP will initiate a review of the submitted disclosures at the request of a committee chair, council director, or member of the Board of Directors, with any additional comments or information provided by the interested party/parties. The COIRP will confidentially discuss whether the interests being considered could significantly affect the individual's ability to make decisions in the best interests of NASS. In-person, teleconference, and e-mail discussions will be acceptable.
  - a. All members of the BOD, all committee/task force appointees, and all speakers for NASS meetings must submit current disclosures.
  - b. Disclosures will be reviewed in a timely fashion.
  - c. In the case of disclosures submitted for educational presentations, education department staff and the CME Council Chairs will complete an initial review of disclosures to discover any potential cases for COIRP review.
  - d. In the case of committee/task force and other leadership appointments, the staff liaisons and committee/task force chairs for those positions will perform the initial disclosure review, bringing any questionable cases to the COIRP.
2. If the COIRP decides that no conflict exists, it so notifies the appropriate party of that finding.
3. If the COIRP decides that a conflict does or may exist, the COIRP will meet with the individual and interested parties and design a plan to manage the specific conflict situation. The proposed recommendations will then be submitted to the BOD for review. Teleconference, in-person, and e-mail discussions will be acceptable.
4. In some cases the COIRP may find that the conflict cannot be managed sufficiently for the proposed volunteer role and may recommend removal of the conflicted party from consideration for said role. The COIRP may have at its disposal the following

recommendations to the Board of Directors: *no conflict exists; a conflict exists which must be managed; or a conflict exists which is significant enough to be inconsistent with holding the position.*

5. In the case of BOD positions, the current BOD will then decide to endorse, modify, or reverse the COIRP's decision. In the case of committee/task force positions, the Committee/Task Force Chair will have the ability to either implement the decision of the COIRP or appeal the recommendation to the full BOD for review.
6. If the BOD agrees with the recommended plan then the individual may:
  - a. Agree to implementation of the plan, in which case, the COIRP will monitor any management plans that have been established and will require updated disclosure from the individual.
  - b. Disagree with implementation of the plan and appeal to the COIRP for reconsideration, only if there is new information to consider which may affect the Panel's consideration of the case.
  - c. Remove him or herself from consideration for the role.
  - d. Volunteers may **not** be "grandfathered in" to positions they already hold without having to adhere to the Leadership COI policy; however, in cases where a conflict exists that is inconsistent with holding the position in question, the member may be given a specified amount of time, if applicable, to divest from the relationship.
  - e. Volunteers who refuse to disclose in accordance with the Disclosure Policy may choose either to resign their position or may have their appointment revoked.
7. An appropriate management plan must be in place before the member is able to participate in the activities for which the conflict exists. The COIRP will monitor any management plans established, and as part of that management, will require updated disclosures from the individual.

#### **B. Process for Members Seeking COIRP Advice on Relationships as they Relate to NASS**

1. Members who have questions about their own conflicts as they relate to NASS and who wish to receive advice on COI/disclosure may petition the COIRP for an opinion on the conflict(s). Any request for COIRP review submitted by a member not seeking leadership office will be treated by the COIRP with the utmost confidentiality.
2. The member will submit a request in writing either via mail to the NASS office, through a webform on the NASS website, or via e-mail to the

- appropriate NASS department. The request should state the reason for the request (e.g. in what activity the member wishes to participate) as well as a brief statement of the nature of the conflict. The member should also submit either a copy of their own completed disclosure form or inform the COIRP in their letter that their disclosure on the disclosure module on the NASS website is current. (If the question for the COIRP is whether, or how, to disclose a certain relationship on this form/module, then a description in the letter will be deemed sufficient). The letter should include a convenient way for the COIRP to contact the member in the event that more information is needed.
3. The COIRP will respond in a timely manner to such requests. If the request is urgent (requesting response in less than 6-8 weeks), it must be marked clearly as such. All reasonable efforts will be made to accommodate such requests.
  4. The COIRP will not be held responsible for misunderstandings or inaccurate/inadequate disclosures that occur as the result of a "late" response on the part of the COIRP.
  5. In the event that the COIRP has rendered a past opinion on a member's specific conflict, and that same conflict is later called into question by another party, the COIRP's decision would be available to be used by the member in his/her own defense.

### **C. Process for NASS Members Filing Complaints about Other Members' Alleged CsOI**

1. A NASS member who wishes to initiate an investigation regarding another member's conflicts of interest should do so by submitting the allegations in writing to the COIRP, either via mail or e-mail. The member must submit a letter alleging what sections of the disclosure policy they feel have been violated by the accused member, and provide evidence (reference to a proceedings book, video, etc) of the alleged violation.
2. If a complaint is filed against a nonmember, alleging an undisclosed COI in connection with a presentation made at a NASS meeting, or at a meeting sponsored by NASS, the COIRP may pursue the matter.
3. If the COIRP feels after an initial review that there is a *prima facie* case for a PCEC complaint, they will refer the complaint to the PCEC for further adjudication.
4. Complaints may not be made anonymously. Phone calls to register complaints are not permitted.
5. A NASS member accused of inadequate or falsified disclosure has a right to read and respond to the allegations made against him or her.

6. In the case of complaints about inadequate disclosure at past events, the PCEC will have a number of possible recommendations to the Board of Directors at their disposal, depending on the nature and severity of the violation:
  - a. Banning the member from presenting papers at similar NASS events for a specified number of years
  - b. A letter of censure published in SpineLine and on the NASS website
  - c. Demand for a letter of apology, to be approved in final draft by the COIRP and published in SpineLine
  - d. Suspension of NASS membership (for NASS member defendants)
  - e. Revocation of NASS membership (for NASS member defendants)
7. As with any other recommendation by the Professional Conduct & Ethics Committee, the recommendations for censure submitted must be ratified by the BOD before they take effect. The BOD has the option to overrule a PCEC recommendation for any reason.