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SUBJECT: PATENTS AND COPYRIGHTS

POLICY:

Nationwide Children's Hospital, Inc. (NCHI) or one of its subsidiaries owns all Intellectual Property, including technical discoveries, inventions and non-academic work authored, developed or invented by Institution's employees, medical staff members, affiliated faculty (regular or auxiliary), trainees or any person using its facilities, unless otherwise stated in writing by duly authorized representatives of the corporation.

PURPOSE:

To define the rights of NCHI, its subsidiaries and affiliates related to the products of educational, basic or applied research activities; to encourage utilization of the patent and copyright systems for the protection of rights in order to facilitate commercial development of inventions and discoveries; and to establish procedures for licensing and distributing royalties which result from such commercial development.

SPECIAL INSTRUCTIONS:

1. **DEFINITIONS**

- A. **Institution is defined as**: Nationwide Children's Hospital, Inc. (NCHI), its subsidiaries, designees and affiliates.
- B. **Intellectual Property is defined as:** any and all creations including, but without limitation, technical discoveries, inventions, research materials, data, know-how, computer software, processes, patents, service marks, trademarks, copyright and non-academic work authored, developed or invented by Inventor(s).
- C. **Un-Recovered Direct Expenses are defined as:**including, but without limitation, application, maintenance, and other fees, rental charges for facilities or equipment, legal and promotion and development expenses related to investigating, evaluating, promoting, developing, protecting and enforcing the rights to the Intellectual Property creating the royalty accounts.
- D. Inventor(s) are defined as:



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- 1. The medical staff of the Institution and/or The Ohio State University (OSU) faculty (regular or auxiliary) who use the facilities of the Institution or
- 2. All employees of the Institution during their regular course of employment and while engaged in activities involving or relating to research or clinical investigation or other activities or who use the facilities of the Institution or
- 3. All house staff, staff members, appointees, students, consultants and other persons engaged in or relating to basic or applied research activities or service programs at the Institution or using the facilities of the Institution.

2. **OWNERSHIP**

- A. If an investigation or activity results in Intellectual Property such as a discovery, invention or other work, the Institution owns all Intellectual Property and reserves the right to seek protection of the invention through the patent and copyright laws and procedures. Due regard will be given to the rights of the Institution, the Inventor(s) and appropriate legal parties.
- B. All Inventor(s) of Intellectual Property agree and are required to execute an Intellectual Property assignment agreement or such other forms acknowledging the Institution's rights pursuant to this policy, when requested by the Institution to do so, and further agree that such execution may be a condition precedent to beginning or continuing employment. All Inventor(s) agree that they are bound by this policy, as it may be amended from time to time, irrespective of whether they have signed such an agreement.

3. **ASSIGNMENT OF INTERESTS**

NCHI reserves the right to assign interests except in the case of sponsored research projects where the Institution agrees to terms of the research contract specifically requiring the assignment of patent or other rights to the sponsor.

4. **DISCLOSURE**

The Inventor(s) shall disclose promptly, in a disclosure form approved by NCHI, all Intellectual Property including, but without limitation, discoveries



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which are the products of basic or applied research or those that arise from testing activities and/or service programs whether or not they are reduced to practice.

5. **INTELLECTUAL PROPERTY COMMITTEE**

- A. The CEO of NCHI shall appoint five to eight persons to constitute an Intellectual Property Committee and designate the Chair of the Committee. The Committee members shall serve at the pleasure of the CEO of NCHI.
- B. The committee shall meet at least quarterly or as determined necessary by the Chairperson.
- C. The Intellectual Property Committee shall have the following powers and duties, which may be delegated in whole or in part to the Office of Technology Commercialization.
 - 1. To develop and promulgate procedures and guidelines pursuant to the Institution's operations including those of the Office of Technology Commercialization in order to fulfill its duties.
 - 2. To evaluate inventions and discoveries for patentability, copyright, scientific merit and practical application.
 - 3. To review and evaluate procedures to encourage the development and commercialization of the Institution's Intellectual Property.
 - 4. Review this policy at least every five years for necessary revision.
 - 5. To authorize applications for patents and copyrights.
 - 6. To determine the patent, related rights and equities held by the Institution related to Intellectual Property, and to negotiate agreements with cooperating or sponsoring organizations with respect to such rights or equities.



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- 7. To reassign Intellectual Property rights to the Inventor(s) when:
 - a) conflicting obligations to outside sponsors of research or other organizations do not exist; and
 - the Institution elects not to file a patent application or commercialize the Intellectual Property, but the Inventor is prepared to do so; and
 - no further research or attempt to develop the invention will be conducted with Institution's support or facilities; and
 - the Inventor agrees that Institution shall receive 10% of any future monies or consideration, including but not limited to royalties, up-front fees or sales revenue, received based on the reassigned Intellectual Property rights; and
 - e) the Inventor agrees that Institution will retain a nonexclusive, royalty-free, perpetual license to use any released or reassigned Intellectual Property for research, clinical service, and educational purposes.
- 8. To provide oversight to the Office of Technology Commercialization and periodically review its activities.
- D. If possible the Intellectual Property Committee shall make its recommendations under Section 5C2 and 5C7 within 90 days of its receipt of all the information furnished by or requested from the investigator.
- E. The Intellectual Property Committee shall submit a written annual report to the CEO of NCHI that summarizes its activities during the prior year. Recommendations for changes to this policy and related procedures or other suggested actions should be included in this report.



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6. **DISTRIBUTION OF INCOME**

- A. **Royalty Account** The Research Institute at Nationwide Children's Hospital, which houses the Office of Technology Commercialization, will be the custodian for royalty income and shall establish a royalty account to receive and remit all royalty, license and other payments and fees in connection with Intellectual Property. All revenues and expenses will be monitored by the Intellectual Property Committee.
- B. **Payments** the gross income from each royalty account shall be subject to restrictions arising from overriding obligations of the Institution pursuant to grants, contracts or other agreements with outside sponsors or with OSU and shall be distributed as follows:
 - 1. Fifty percent of all amounts received up to the first \$75,000 of gross income shall be paid to the Inventor(s). The remaining 50 percent shall be retained for payment of Un-Recovered Direct Expenses. Any balance of the Institution's 50 percent not used to pay Un-recovered Direct Expenses goes to the Research Institute, which houses the Office of Technology Commercialization.
 - 2. Royalty income exceeding the first \$75,000 from which has been deducted all other Un-recovered Direct Expenses will be distributed by the Office of Technology Commercialization as follows:
 - a) 33 1/3 percent to the Inventor(s)
 - b) 66 2/3 percent to NCHI and distributed to the appropriate subsidiary, which will expend the income as determined by a policy of the subsidiary.
 - c) If a regular faculty member of OSU is involved, the distribution, after deduction of all Un-recovered Direct Expenses, will be as follows:
 - 1. 33 1/3 percent to the Inventor(s)
 - 2. 33 1/3 percent to NCHI and distributed to the appropriate subsidiary,
 - 3. **33 1/3** percent to OSU.



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3. The Inventor's share of royalties received after death shall be paid to the Inventor's estate until such time as it is assigned by the appointee authority (probate court, estate administrator/executor, or trustee as applicable).

7. **Scholarly Works**

All original works of authorship or works made for hire by investigators that may be developed, are intended to be covered by the policy, provided, however, it is not the intent of this policy to affect the tradition of scholarly and purely academic composition by the author of such work. To be clear, works such as textbooks, articles, manuscripts or personal authorship outside of employment duties are not intended to be considered under this policy and are exempt from this policy.

8. **Appeals**

- A. All determinations of patent, copyright or other ownership rights made by the Intellectual Property Committee shall be final unless appealed by the Inventor. Appeal shall be made to the CEO of NCHI whose decisions shall be final.
- B. Appeals shall be made in writing within 90 days of notification of the Committee's decision.
- C. The Inventor shall have adequate notice of the appeal hearing and shall have an opportunity to present appeal information, as he/she deems relevant.

Approved by:	
	Richard J. Miller, President and Chief Operating Officer