

# KINGSTON GENERAL HOSPITAL

## ADMINISTRATIVE POLICY MANUAL

**Subject: Intellectual Property – Queen’s Faculty and Staff  
Members with Hospital Appointments**

**Number: 01-122**

Prepared/Reviewed by: Vice President, Health Sciences Research  
President, KGH Research Institute  
Planning and Performance Committee

Page: 1 of 4  
Original Issue: 2000.05  
Revised: 2015.04

Issued by: President and Chief Executive Officer

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### **Preamble**

Kingston General Hospital (KGH) recognizes its responsibility to produce and disseminate knowledge. Inherent in this responsibility is the need to encourage the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other intellectual property. The creation of intellectual property may have potential for commercialization, which thereby contributes to the professional development of researchers and the research staff, students, and trainees involved. It also enhances the reputation of the Hospital, provides expanded educational opportunities, and potentially can advance knowledge that brings evidence into practice for the benefit of our patients, their families and our medical community.

### **Policy Statement**

This policy applies to all Queen’s University Faculty and Staff members with hospital privileges or hospital research appointments (“Appointees”) and the intellectual property (IP) created by Appointees which results from the use of Hospital space, funding, facilities, staff or patients (Hospital resources). This policy is intended to complement the current intellectual property policy contained in the collective agreement between Queen’s University and the Queen’s University Faculty Association (QUFA). The policy is designed to encourage patenting and commercial development of, and promote maximum public benefit from, the fruits of intellectual endeavour of Appointees using Hospital resources.

KGH is working collaboratively with its partners, including Hotel Dieu Hospital (HDH) and Providence Care (PC), and to the extent possible attempts to harmonize policies and procedures for issues of common interest such as research have occurred. The elements of this policy are similar to those found in the policies of HDH (Policy #7180) and PC (Policy #ADM-RES-3).

### **Definitions**

Intellectual Property means any result of intellectual activity by an Appointee that can be owned by a person and includes inventions, publications, computer software, industrial and artistic designs, composition of matter, new or improved devices, systems, chemical compounds and any other creation that can be protected under patent, copyright or trademark laws.

### **Procedures**

1. Intellectual property which results from the use of Hospital resources is owned by the Appointee, unless some other arrangement has been agreed to in advance.

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2. The Hospital has a non-exclusive, royalty free, fully paid up license to use for non-commercial educational and research purposes within the Hospital, for all intellectual property created by Appointees using Hospital resources.
3. Appointees who wish to exploit the commercial potential of intellectual property must report, in writing, to the KGH Vice President, Health Sciences Research prior to seeking protection or commercialization. The KGH Vice President, Health Sciences Research shall determine whether the Hospital or Queen’s University (Queen’s) will take the lead role in commercializing the results of the intellectual property.
  - a) If Queen’s takes a lead role and the Hospital has an interest in the IP, negotiations between the Queen’s Vice-Principal, (Research) and the KGH Vice President, Health Sciences Research shall take place to determine the respective interests of Queen’s and the Hospital in any net revenues;
  - b) If the Hospital takes the lead role, the provisions of the remainder of this policy shall be in effect.
4. PARTEQ Research and Development Innovations (PARTEQ) is the agent chosen by the Hospital to protect and commercialize intellectual property which results from the use of Hospital Resources.
5. Following the disclosure to the KGH Vice President, Health Sciences Research and the Queen’s Vice-Principal (Research), if PARTEQ is a suitable vehicle for the exploitation of the intellectual property, it shall have an exclusive opportunity for sixty (60) days to make a proposal for exploitation acceptable to the Appointee. Any disclosure shall be kept in confidence by PARTEQ and the Hospital. The Appointee has no obligation to accept a PARTEQ proposal if PARTEQ is unsuitable. Unsuitability of PARTEQ shall be based upon:
  - a) An inadequate capacity to undertake the exploitation in an expeditious manner; or
  - b) Insufficient prior experience with the type of intellectual property or with the types of exploitation, which are likely to yield a good return for such intellectual property.
6. Any dispute between the Hospital and the Appointee as to whether PARTEQ is a suitable vehicle for exploitation shall be resolved by consensual mediation or arbitration as set out below.
7. In the event that the Appointee and the Hospital are unable to decide on the suitability of PARTEQ, either the Appointee or the Hospital may request mediation of the dispute within

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forty-five days after the Appointee has advised the Hospital that PARTEQ is not suitable vehicle. The other party has five working days within which to indicate its consent to mediation. If the parties agree to proceed to mediation, the mediator shall be chosen by mutual agreement between the Appointee and the Hospital within ten days.

8. In the event the parties do not proceed to mediation or the mediation is unsuccessful, either the Hospital or the Appointee shall give a notice of its intent to proceed to arbitration within forty-five days after the Appointee has advised the Hospital that PARTEQ is not a suitable vehicle or within ten days of an unsuccessful mediation.
9. The arbitration panel shall be formed as follows: the Appointee shall select one member of the panel, the KGH Vice President, Health Sciences Research shall appoint another member of the panel, and the two panel members shall appoint a chair. The Hospital and the Appointee agree that the selection of the panel shall be conditional upon the panel members agreeing that:
  - a) the arbitration shall commence within sixty days of the selection of the panel;
  - b) the expected number of days needed to complete the arbitration, which shall have been determined in advance by the Hospital and the Appointee, shall be scheduled within a mutual agreeable time; and
  - c) the panel agrees that its decision will be delivered within sixty days of the completion of the evidence.
10. If the Appointee elects to use the services of PARTEQ and PARTEQ agrees to commit its resources to protection and commercialization, the sharing of net revenues with the Appointee will be in accordance with the business practices of PARTEQ, as approved by its Board of Directors.
11. If PARTEQ is the agent selected to commercialize the intellectual property, negotiations between the KGH Vice President, Health Sciences Research, the Queen’s Vice-Principal, (Research) and PARTEQ shall take place to determine the respective interests of the Hospital and Queen’s in any net revenues.
12. Appointees have the right to withdraw from agreements with PARTEQ under certain circumstances:
  - a) where the restrictions associated with the exploitation are interfering with the ability of the Appointee to pursue the scholarly research, and the Appointee agrees not to seek subsequently to exploit the intellectual property for commercial purposes; or

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Page: 4 of 4

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- b) PARTEQ has failed to bring appropriate skills and effort to bear on the exploitation over a period of time.
  - c) Any dispute about whether withdrawal is warranted shall be resolved as set out in Section 6.
13. If the Appointee elects to protect or exploit intellectual property developed with Hospital resources without PARTEQ and if PARTEQ was a suitable vehicle for such exploitation and if the Appointee receives any net proceeds of exploitation, the Appointee shall pay to the Hospital twenty-five percent of any net proceeds of exploitation exceeding \$500,000.00. If Queen’s has an interest in the intellectual property Queen’s and the Hospital shall enter into negotiations to determine their respective interests in said twenty-five per cent interest.
14. Any net proceeds to which the Hospital becomes entitled to shall be placed in a KGH Research Institute research restricted account for the general purpose of supporting patient-oriented research in the Hospital at the discretion of the KGH Vice President, Health Sciences Research.

Related Documents: 01-121 Intellectual Property-Employee  
11-021 Research Hospital Appointment  
11-150 Health Research  
11-151 Research and Clinical Trial Agreement Overhead  
11-152 Standard Operating Procedures for Clinical Research

Authorizing Signature

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Leslee J. Thompson  
President and Chief Executive Officer