

KINGSTON HEALTH SCIENCES CENTRE

ADMINISTRATIVE POLICY MANUAL

Subject: Intellectual Property – Hospital Employee

Number: 01-121

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Issued by: President and Chief Executive Officer

Preamble

The Kingston Health Sciences Centre (KHSC), together with its sole agents for research, the Kingston General Health Research Institute (“KGHRI”) and the Hotel Dieu Hospital Kingston Research Institute (“HDHKRI”), endorses and supports research that advances knowledge and brings evidence into practice for the benefit and empowerment of our patients, their families and our medical community. KHSC consists of two hospital sites: Kingston General Hospital and Hotel Dieu Hospital. The Hotel Dieu Hospital site conducts all research consistent with the history, traditions, mission and Catholic faith and in accordance with the Catholic Health Ethics Guide published by the Catholic Health Alliance of Canada.

KHSC 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 its Hospital employees involved. It may also enhance the reputation of the Hospital, provide expanded educational opportunities, and potentially 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 Hospital employees and the inventions and intellectual property created by Hospital employees which results from the use of patients, patients' families, Hospital facilities (equipment and space), Hospital funding, and/or Hospital staff (collectively “Hospital Resources”). The policy is designed to encourage patenting and commercial development of and promote maximum public benefits from the fruits of intellectual activity of Hospital employees using Hospital Resources.

KHSC works collaboratively with its partners, Queen’s University at Kingston (Queen’s) and Providence Care Centre (PC). To the extent possible, attempts have been made to harmonize policies and procedures for issues of common interest, such as research, with our partners. The elements of this policy are similar to those found in the PC Policy #ADM-RES-3.

Definitions

Invention means any subject matter that is (a) new and useful art, process, machine, manufacture or composition of matter, or any new or useful improvement in any act, process, machine, manufacture or composition of matter (Patent Act, R.S.C. 1985, c.P-4, s.2) whether or not patentable, (b) patentable research data or research tool, including, without limitation, biological material and other tangible research material, and (c) proprietary information or know-how, or trademark related to any of the foregoing items; and includes all legal and equitable rights relating to such property and any

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research data relating to such property. For clarity, Invention does not include non-patentable computer software.

Intellectual Property means any result of intellectual activity created by Hospital employee(s) that can be owned by a person and includes inventions, publications, computer software, works of art, 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.

Employee is a person(s) who is employed by the Hospital and paid primarily through the Hospital, any person(s) providing service(s) to the Hospital (in the capacity as a representative of the Hospital), and/or any student(s) in a clinical learning environment within the Hospital.

Procedures

1. Inventions/Intellectual Property created by Hospital employee(s) which results from the use of Hospital Resources is owned by the Hospital, unless some other arrangement has been agreed to by the Hospital in advance in writing. However, in recognition of the Hospital employee(s)' contribution to Inventions/Intellectual Property, the Hospital employee(s) are entitled to share in the proceeds of the commercial exploitation of Inventions/Intellectual Property as outlined below.
2. Any Hospital employee(s) who create an Invention which may have commercial potential or may be patentable must disclose the Invention to KHSC Vice President, Health Sciences Research to ensure that the potential patentability of the Invention is promptly assessed.
3. Following disclosure to KHSC Vice President, Health Sciences Research, the Invention will be forwarded to Queen's University Technology Transfer Unit for its review and assessment. If Queen's University Technology Transfer Unit is of the view that exploitation of the Invention is possible, it shall proceed to protect and commercialize the Invention at its costs. Before proceeding with patenting or licensing, the Hospital employee(s) must assign all rights in the Invention to the Hospital in writing.
4. The sharing with the Hospital of revenues from the Inventions/Intellectual Property, net of expenses, shall be determined by the Hospital and Queen's University Technology Transfer Unit in accordance with the Management and License Agreement between the Hospital and Queen's University Technology Transfer Unit. Any net revenue returned to the Hospital will be divided with the Hospital employee(s) as follows: 40% to the Hospital employee(s), 60% to the Hospital.
5. In the event that Queen's University Technology Transfer Unit determines that the Invention is no interest to the Hospital, the Hospital will consider assigning the rights of the Invention to the Hospital employee(s).

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6. Should the Hospital assign rights of the Invention to the Hospital employee(s) and the Hospital employee(s) elects to protect or exploit the Invention developed with Hospital Resources without Queen's University Technology Transfer Unit, then if the Hospital employee(s) receive any net proceeds of commercial exploitation, the Hospital employee(s) shall pay to the Hospital twenty-five percent (25%) of any net proceeds of exploitation exceeding \$500,000.00.
7. Any net proceeds to which the Hospital becomes entitled to shall be placed in the Hospital Research Institute(s)' research restricted account, for the general purpose of supporting patient-oriented research in the Hospital at the discretion of the KHSC Vice President, Health Sciences Research.

Adherence to the foregoing procedures will ensure efficient administration of research within the Hospital.

Related Documents

KHSC - 01-122 Intellectual Property-Queen's Faculty and Staff Members with Hospital Appointments

KHSC - 11-150 Health Research

KHSC - 11-151 Research and Clinical Trial Agreement Overhead

KHSC - 03-021 Research Restricted Accounts

KHSC - 11-152 Standard Operating Procedures for Clinical Research

KGH - 11-012 Research Hospital Appointment

Authorizing Signature

Dr. David Pichora
President and Chief Executive Officer