Three Things for UAB Faculty & Staff to Know About the Alabama Ethics Law

As public employees of the State of Alabama, we must adhere to the expectations of the Alabama Ethics Law. The overarching intent of the law is to prevent professional decisions made by public employees in their official capacities from being influenced by personal interests and to prohibit use of public resources for private gain. These legal principles are echoed in many UAB policies, including the UAB Enterprise Code of Conduct, UAB Enterprise Conflict of Interest and Conflict of Commitment Policy, Institutional Conflict of Interest Policy, Use of UAB Resources by External Entities Policy, Acceptable Use of Computer and Network Resources Policy, Nepotism Policy, etc.

It is important for everyone to be aware of how the ethics law may apply in their circumstances. While this is, by no means, an exhaustive list, here are three quick, general things to know:

1) The law’s prohibition against personal benefit requires careful consideration when dealing with...

Continued on page 5
Focus on Safety: The UAB/UAB Medicine Behavioral Threat Assessment and Management Initiative: As part of UAB’s ongoing commitment to enhancing safety on campus, the President’s Risk Cabinet, along with UAB Health System leadership, has implemented a process for identifying, assessing, and managing behavioral threats posed to employees, students, patients, and visitors. Led by Co-chairs Andy Marsch and Jamie Erwin, the UAB/UAB Medicine Behavioral Threat Assessment and Management (BTAM) Team collaborates and coordinates, through ongoing and periodic communications within the team and with others, to proactively and effectively evaluate and manage behavioral threats to the safety and well-being of all members of the UAB community. For more information, please visit the BTAM website.

Export Control: Balancing Academic Freedom & National Security

Export control presents unique challenges because it requires balancing concerns about national security and U.S. economic vitality with traditional concepts of academic freedom and publication and dissemination of research findings and results. To protect national security and foreign policy interests, the United States has enacted laws regulating exports. Export control refers to federal rules and regulations that impact how certain items, technologies, and information can be shipped, transmitted, or transferred outside the U.S. or with foreign nationals (non-U.S. citizens) within the United States, including here at UAB. Some UAB scholarly, research, and operational activities, including collaborations or work abroad, whether sponsored or not, are affected by these laws and regulations.

It is very important to understand that these laws apply to you as an individual as much as they apply to the University. Violations can lead to serious penalties for both you and the University. It is necessary to know about your legal obligations to help avoid an inadvertent violation since some of the penalties are criminal in nature; lack of knowledge or intent is not a defense.

Generally, an export license from the U.S. Dept. of Commerce or Dept. of State is required before a foreign national may be given access or before an export-controlled item may be transferred to a foreign country. In certain cases, an export license exception/exemption is available. In other situations, a proposed disclosure or transfer may be prohibited.

It can take several months to prepare and submit an application for an export license and to receive feedback from the federal government. You are strongly encouraged to contact the University Compliance Office as soon as you believe an export control issue may exist or a license may be needed.

Investigators: A Financial Interest You Hold is One You Must Disclose

Between 2002 and 2007, widely admired scientist and prominent psychiatrist, Dr. Charles Nemeroff, earned over $2.8 million in consulting fees from drug makers. However, according to Congressional investigators, he reported less than half of that amount to his employer, Emory University, violating federal research rules. Dr. Nemeroff eventually resigned as chair of Emory’s Department of Psychiatry and was prohibited from serving as an investigator on any NIH grant for at least two years. Notably, Dr. Nemeroff was not sanctioned for earning the fees or providing the consulting services, but rather for failing to disclose the actual extent of his relationships and financial interests with industry to Emory.

The UAB Enterprise Conflict of Interest and Conflict of Commitment Policy identifies the circumstances under which University employees are required to report certain types of external activities, financial interests, and remuneration. As a recipient of federal research funding, UAB follows investigator disclosure requirements mandated by federal regulations and federal funding agency policies. Therefore, failure to fulfill disclosure requirements could potentially result in violations of both University policy and federal regulations, in which could lead to corrective action, remediation, and/or reporting to a federal agency.

Disclosure deficiencies by investigators further impact UAB’s Conflict of Interest Review Board (CIRB) by hindering appropriate and timely review for potential investigator conflicts of interest. Thus, UAB’s ability to assure federal sponsors of objectivity in research and to provide a reasonable expectation that the design, conduct, and reporting of research will be free from bias can be compromised. The reliability of the entire process begins with the investigator reporting activities and accurately disclosing financial interests.

If you have questions about UAB policy and procedures for meeting federal conflict of interest requirements, please contact the Office of the Conflict of Interest Review Board.
Spring is the time for “Sunshine”: Update on the Open Payments Law

More and more, transparency of relationships and payments has become part of the healthcare and research landscape. Take, for instance, the Open Payments Law, part of the Affordable Care Act of 2010.

Open Payments requires pharmaceutical and medical device/supply manufacturers to report to the Centers for Medicare & Medicaid Services (CMS) transfers of value they make to physicians, dentists, and optometrists. Transfers include consultancy fees, travel, food, entertainment, and even certain research payments. CMS then makes information about these transfers broadly available via a public website. While providers themselves have no responsibility under the Open Payments Law, they are provided opportunity to register with the Open Payments System, preview data reported about them, and dispute payment records they believe are inaccurate. In fact, the period for review and dispute of data submitted by applicable manufacturers for 2015 is now open. Publication is scheduled for June 30, 2016. Disputes are not mediated by CMS, but unresolved disputes are noted on the public website.

So, if UAB providers have no legal obligations to take action under Open Payments, what’s there to do? Well, UAB faculty and staff are expected to obtain advance approval of activities they perform for external entities, like pharmaceutical or medical device/supply manufacturers, under the UAB Enterprise Conflict of Interest and Conflict of Commitment Policy. It’s important for UAB faculty and staff to ensure that they have filed the appropriate external activity forms through UAB Electronic Forms. Though the information reported in the Open Payments System will not align exactly with what is expected in the forms database, it may remind providers of activities that have not yet been submitted or amounts that have not yet been included. Being aware of data reported about them can also prepare providers for potential questions that this level of transparency may spur – from media outlets, colleagues, patients, and others. For more information, visit Federal Open Payments Law.
State of Alabama Ethics Commission
Statement of Economic Interests Now Due

Who must file?
UAB employees who meet certain criteria have a legal duty to file a Statement of Economic Interest (SEI). This includes all full-time public employees who make a salary of $75,000 or higher and anyone serving as a supervisor, regardless of salary. UAB employees who meet these criteria received email notification from the UAB Office of Human Resources on Wednesday, March 9.

Please note that the SEI requirement does not replace any UAB requirement to obtain advance approval of external activities or disclose financial interests under institutional conflict of interest policies.

Where to go?
The form may be completed online at http://ethics.alabama.gov/forms-ecint2.aspx. See also the UAB Human Resources Records Administration webpage for more information.

What are the potential consequences?
Responsibility for compliance with the Ethics Act, including the duty to file the Statement of Economic Interests, rests with the employee. Employees who are required to file a Statement of Economic Interests with the Ethics Commission but fail to do so timely may be fined $10.00 per day, not to exceed $1,000.00, or be charged with a Class A misdemeanor for intentional failure to file (see Alabama Code, Section 36-25-14(d) & (e)).

Don’t let April Fool you! Statement of Economic Interests must be received by the Alabama Ethics Commission by May 2.

Code of Conduct Corner
Standard of Conduct: Acknowledge and Appropriately Manage Conflicts of Interest

UAB is committed to conducting its affairs in ways that promote mutual trust and public confidence. In its Code of Conduct, UAB recognizes the importance of acknowledging and appropriately managing conflicts of interest.

UAB faculty and staff owe their primary professional obligation to UAB and its mission of education, patient care, research, and scholarship. They have an obligation to be objective and impartial in making decisions on behalf of UAB. External professional activities, private financial interests, or the receipt of benefit from third parties can cause an actual or perceived conflict between UAB’s interests and an individual’s private interests. UAB community members are expected to:

★ Accept benefits, awards, and prizes from external entities only in accordance with established UAB policies and standards (see resources below);

★ Disclose relationships with third parties, such as consulting, board membership, or professional services, in accordance with UAB’s process to ensure objective judgment in purchasing, research, and other UAB business and to identify any potential or actual conflicts of interest;

★ Adhere to any management plans created to manage conflicts of interest; and

★ Ensure one’s personal relationships do not interfere with objective judgment in decisions affecting UAB employment or academic progress of any UAB community member.

For more information on specific requirements, visit: the UAB Enterprise Conflict of Interest and Conflict of Commitment Policy.
Three Things for UAB Employees to Know About the Alabama Ethics Law (continued from page 1)

with non-UAB business, like a personal or family business; using UAB property in external activities; accepting awards, prizes, and other things of value; and supervising family members who work at UAB. Common examples of how the ethics issues may arise and are to be treated in the University environment are discussed on the University Compliance Office website.

2) Actual or perceived conflicts of interest between one’s public position and one’s personal affairs may be either actual or perceived. Best practice is for UAB employees to keep official and personal business separate to avoid even the appearance of impropriety. When a potential conflict of interest arises, it is often helpful to get clarity from an objective party within one’s professional reporting line prior to taking any action. (In other words, seek guidance from your supervisor or department head before moving ahead!)

3) The “Revolving Door” provision of the ethics law is aimed at prohibiting “golden parachutes” by providing that “[n]...director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.” However, this does not apply to non-compensatory work for the University post-retirement, as in the case of emeritus faculty.

Additionally, certain UAB employees are required to file an annual Statement of Economic Interests form with the Alabama Ethics Commission (see page 4). Information submitted is available to the public. Compliance with the state ethics law is an individual responsibility, and consequences for violations can include penalties such as fines all the way up to prison sentences. If you have questions about specific situations in which the state ethics law may be implicated, you are encouraged to contact UAB’s Office of Legal Counsel, the Office of Human Resources, or the University Compliance Office.

If in doubt, seek guidance from your supervisor or department head.

Best practice is to keep official and personal business separate.