

Charleston Research Institute Policy Memorandum

Title: Acceptance of Honoraria, Speaking Fees, Writing Fees and Consulting Payments from VA Employees

Reviewed by: Board of Directors

Implementation Date: 2/21/2007

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Approval: R. Amanda C. LaRue, Ph.D., Chairperson

Policy Statement:

Charleston Research Institute (CRI) may accept unrestricted donations or restricted donations to support a certain investigator or research program. CRI may not accept honoraria, speaking fees, writing fees and consulting payments provided to an investigator as payment for participation in an activity.

Background:

Federal Law, Title 38 USC 209(a), prohibits VA investigators from receiving salary or any contribution to or supplementation of salary from any source other than the United States Government as compensation for services as an employee of the United States.

When a VA investigator directs honoraria, speaking fees, writing fees and consulting fees be made payable to CRI as a donation in lieu of accepting it personally this may pose ethical problems, impose an unexpected tax liability on the donor, and require CRI to guard against use of the funds in ways that create an actual or perceived personal benefit for the donor.

The IRS may view amounts earned any time there is a quid pro quo - an exchange of goods or services for payment - as income. Such payments may be taxable to the investigator regardless of whether payment goes to CRI or the individual accepts it personally. Secondly, if an investigator exercises control over dispensation of payment (called "constructive receipt") or expects payments will be available to support their own research, in IRS terms, their expectation is that use of the gift is "restricted" to their own research and could provide an actual or perceived personal benefit to the donor.

Guidelines:

If CRI receives honoraria, speaking fees, writing fees and consulting payments provided to an investigator as payment for participation in an activity, the check will be returned with an explanation that after review and under current policy CRI is unable to accept funds. An alternative is to ask the check issuing entity to re-write the check payable to the PI if that's acceptable within VA guidelines. If the employee has a Federal appointment, the following criteria must be met:

1. The employee provides evidence that he or she was on annual leave or on their own time, not on official duty time and,
2. The employee certifies that the activity was not directly related to their VA duties
3. Given that a conflict of interest analysis is done on a case by case basis and it is nearly impossible to state whether there is a conflict of interest without specific facts, employees should consult with the Office of Regional Counsel Ethics Team (OGCSouthEastEthics@va.gov) as issues and concerns develop.