
 <b>ADMINISTRATIVE POLICY MANUAL</b>	<b>THE CHILDREN'S HOSPITAL OF PHILADELPHIA</b>	<b>No. A-3-4</b>
	<b>Title:</b>  <b>PATENT AND INTELLECTUAL PROPERTY POLICY</b>	<b>Page 1 of 22</b>  <b>Effective Date:</b> <b>03/11/22</b>

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**PURPOSE**

To provide a policy that governs the treatment of Intellectual Property.

**POLICY**

The Hospital strives to be a world leader in the advancement of health care for children by integrating excellent patient care, innovative research, and quality professional education into all of its programs. In promulgating this policy, the Hospital seeks to achieve certain objectives, including: (a) encouraging research and scholarship by Hospital IP Personnel; (b) where appropriate, promoting the protection of Intellectual Property that may arise in the course of Hospital activities; (c) serving the public interest by making Intellectual Property available to the public at the appropriate time and to an appropriate partner as applicable; (d) encouraging the earliest possible disclosure of specific Intellectual Property to the Hospital in order to avoid the unintended forfeiture of rights and to expedite the public availability of the Intellectual Property; (e) defining the rights and obligations of Hospital Personnel and of the Hospital with respect to Intellectual Property; (f) generating funds for

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scientific investigation, clinical innovation, and research; and (g) providing an administrative function that can assist in the administration of this policy, including evaluating Intellectual Property, appraising and determining the relative rights and equities of parties involved in the creation of Intellectual Property, overseeing the filing of Patent and Copyright applications and related documents, promoting the licensing of Intellectual Property, assisting in obtaining funds for research that may result in the creation or further development of Intellectual Property, and otherwise promoting the fair and uniform application of this policy.

### **SCOPE**


This policy applies Enterprise-wide to all persons affiliated with the Hospital, including, without limitation, Trustees, officers, members of Board committees, employees, members of the Medical Staff, and scientists engaged in research under the auspices, of The Children's Hospital of Philadelphia, including The Children's Hospital of Philadelphia Research Institute, the CHOPPA Practice Plans (currently Children's Anesthesiology Associates, Children's Health Care Associates, Children's Surgical Associates, Radiology Associates of Children's Hospital, and their New Jersey affiliates), and entities controlling, controlled by or under common control with The Children's Hospital of Philadelphia, including, without limitation, The Children's Hospital of Philadelphia Foundation (together, the "**Hospital**"), as well as others who conduct research or develop Intellectual Property using Hospital Facilities, Hospital Funds, and/or other Hospital Resources, including, without limitation, students, residents, fellows, post-docs, trainees, technicians, scientists, visiting scientists, physicians, nurses, employees, administrators, occupants of the Hospital laboratories, non-traditional personnel (NTP), volunteers of the Hospital, and all persons whose grants, contracts or other funds are administered by the Hospital, and/or whose salaries are paid directly, or indirectly, by the Hospital, including indirectly through a University of Pennsylvania account (all such persons defined herein as, "**Hospital IP Personnel**").

### **RELATED POLICIES**


Administrative Policy Manual	<a href="#"><u>No. A-3-1 Conflicts of Interest</u></a>
Administrative Policy Manual	<a href="#"><u>No. A-3-5 Confidentiality of Patient and Institutional Information</u></a>
Administrative Policy Manual	<a href="#"><u>No. A-3-7 Interactions with Vendors</u></a>
Research Policy Manual	<a href="#"><u>Research Data Ownership and Management Policy</u></a>
Research Policy Manual	<a href="#"><u>Program Income Policy</u></a>

### **DEFINITIONS**


- A. Any capitalized terms contained in the Patent and Intellectual Property Policy not specifically defined herein shall be defined as set forth in the Related Policies listed above.

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- B. **“Author”** means the creator of a Work, however fixed, including the creator of a copyrightable Work and/or the creator of Software.
- C. **“Biological Materials”** means any and all tissue, fluid, material, matter or section derived from a biological source, and any part or derivative arising from or based on any of the foregoing, including, without limitation, amino acid sequences, antibodies, blood, cells, cell lines, clones, genetic constructs, germplasm, hybridomas, nucleic and ribonucleic acid sequences, organic reagents, organisms and recombinant organisms, peptides, plasma, plasmids, proteins, urine, and vectors.
- D. **“Copyright”** is a form of protection provided to the authors of “original works of authorship”, including literary, dramatic, musical, artistic and certain other intellectual works such as software as defined by the laws of the United States (Title 17 of the U.S. Code) and/or foreign jurisdictions.
- E. **“Confidential Information”** means any and all information, in whatever form (regardless of media or format, including, without limitation, oral, electronic or on paper), whether technical or non-technical in nature (whether or not patentable), that is or relates to, directly or indirectly, non-public Hospital business information, non-public research information, vendor trade secrets or other confidential Hospital information, including, without limitation, Intellectual Property.
- F. **“Data”** means any and all data, information and results, in whatever form (regardless of media or format, including, without limitation, oral, electronic or on paper), whether technical or non-technical (whether or not patentable), and in each case, any records thereof, including, without limitation, protected health information (PHI), research protocols (clinical and non-clinical), research plans, statements of work, technical specifications, procedures, laboratory notebooks, research results, materials, processes, techniques, methods, know-how, show-how, and collections of materials (such as libraries, registries and databases).
- G. **“Effective Policy Date”** shall be March 9, 2022.
- H. **“Equity”** means ownership interests or securities, including but not limited to shares of stock or securities, stock options, warranties or any other rights to purchase stock or securities, debt instruments, partnership interests in a general or limited partnership or membership interest.
- I. **“Gross Income”** means all monies, Equity, or proceeds from the liquidation of Equity, received by the Hospital from its licensing, transfer or administration of Intellectual Property subject to this Policy, including royalties, lump sum payments and milestone payments paid in consideration for the use of Intellectual Property, but excluding sponsored research or similar payments and payments intended to reimburse the Hospital for past or future expenses or investments, less any monies that the Hospital is required to pay to sponsoring or granting organizations, co-owners of the subject Intellectual Property and others with a claim of right to such monies. Any income or reimbursements received by the Hospital from its own use or deployment of Intellectual Property in the treatment of patients or performance of services shall also be excluded from Gross Income.

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- J. **“Hospital Facilities”** means any facility owned, leased, licensed or otherwise in the possession of the Hospital.
- K. **“Hospital Funds”** means funds that are owned, held in trust by or for, or administered by the Hospital, regardless of their origin. Such funds include, but are not limited to, funds, received, generated and/or administered by the Hospital (such as operating funds, Board-restricted funds, or investment funds), endowments, amounts received by the Hospital from grants, which, for purposes of this policy, includes subgrants and subcontracts (such as grants from the United States Government or its agencies, state or local governments or their agencies, non-governmental organizations, private foundations, for-profit companies or foreign governments), amounts received by the Hospital from contracts, which, for purposes of this policy, includes subcontracts, and amounts received by the Hospital from contributions, contracts, gifts or awards and any income resulting from any of them.
- L. **“Hospital IP Personnel”** means the definition set forth in the Scope section of this Policy.
- M. **“Hospital Resources”** means Hospital Facilities, Hospital Funds, property or other tangible or intangible assets or resources of the Hospital, such as Hospital equipment, inventory, Intellectual Property owned by or licensed to the Hospital, and/or Hospital IP Personnel during periods when Hospital IP Personnel are acting within the scope of their relationship with the Hospital or are using Hospital Facilities, Hospital Funds, or other Hospital Resources, including, without limitation, other Hospital IP Personnel.
- N. **“Institutional Work”** means all Works (i) commissioned by the Hospital or created for Hospital purposes for the pursuit of a specific project, including, without limitation, “works made for hire,” which consists of work assigned to Hospital personnel or developed by Hospital personnel or within the scope of their Hospital employment or engagement, software developed by employed or contracted staff in Hospital’s Information Systems department for the Hospital’s use; a web-based application, service, or tool, a toolkit, book written by Hospital personnel; or, (ii) created using Hospital Facilities, Hospital Funds, or other Hospital Resources.
- O. **“Intellectual Property”** means any and all creations of the mind, including, without limitation, (i) Biological Materials, (ii) Confidential Information, (iii) Data, (iv) Inventions, (v) Patents, (vi) Works, (vii) Service Marks and Trademarks, and (viii) Trade Secrets, and for each of the foregoing, any and all rights that may arise or result from Intellectual Property, including, without limitation, Patent Rights, Copyright, and any other associated right arising from or under Intellectual Property.
- P. **“Invention”** means (whether or not patentable) any new and useful idea, invention, know-how, process, technology, Software or discovery of any apparatus, composition of matter, design device, formulation, machine, manufacture, method of making, method (such as diagnostic or therapeutic), process, new use, new life forms, or any variety of plant, and for each of the foregoing, any new and useful improvement, enhancement, progeny, product, variant or derivative thereof.

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- Q. **“Invention Assignment Agreement”** means a written agreement setting out rights and responsibilities of Hospital IP Personnel and confirming the automatic assignment of ownership of Inventions to the Hospital.
- R. **“Invention Disclosure”** means the written or electronic form that should be submitted to CHOP’s Office of Technology Transfer, via paper, email or on-line portal, that includes a written description of any Institutional Work or Invention that an Inventor believes they have made.
- S. **“Inventor”** means an individual who, individually or jointly, conceives of a definite and permanent idea of the complete and operative Invention such that it is capable of being reduced to practice, or otherwise inventively contributes to the conception of an Invention, and in any case, an individual who meets the criteria for inventorship under United States Patent laws. For the purposes of this Policy, Inventor also means an Author of a Work.
- T. **“IPA”** means the Intellectual Property Administrator who is designated by the Chief Scientific Officer. As of the Effective Date of this Policy, the IPA shall be the Vice President, Technology Transfer, Innovation, and Research Contracts.
- U. **“Net Income”** means Gross Income minus the total of all documented costs relating to the protection and commercialization of Intellectual Property, including, without limitation: (i) the preparation, filing and maintenance fees and costs, legal fees and other costs relating to the protection of Intellectual Property, including with respect to Patents, Trademarks or Copyrights, (ii) costs relating to the enforcement and/or defense of Intellectual Property, including, without limitation, costs associated with litigation, disputes, legal advice and representation, judgments, settlements, fines, and assessments; (iii) costs relating to the commercialization of Intellectual Property, including, without limitation, production, advertising, marketing, and marketability search expenses, (iv) costs related to creation of startups and use of outside consultants or service providers in company formation and negotiation of agreements with those startups, and (v) other documented costs incurred by the Hospital attributable to Intellectual Property.
- V. **“Patent”** includes (i) one or more patents, certificates of invention, registration or other form of protection for an invention issued by any government or governmental agency, domestic and foreign, including, without limitation, re-exams, reissues, corrections and extensions thereof, (ii) all related patent applications filed, pending and/or published, including, without limitation, provisionals, continuations, divisionals continuations-in-part, re-examinations, any Patent Cooperation Treaty (PCT) application filed or to be filed and all national stage applications filed therefrom, (iii) and for each of (i) and (ii) all Patent Rights therein and thereto. The term "Patent" does not include Copyrights, photographs or images or textual materials that do not qualify for Patent protection under United States Patent laws.
- W. **“Patent Rights”** means all rights, title, and interest in, to and under any Invention or Patent and associated rights therein and thereto, including, without limitation, the right to file for any such Patent and to have any such Patent issued in the name of the owner or assignee, the right to claim any priority right to which the Inventor, or anyone claiming under him or her, may be entitled, all

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rights of a Patent owner under 35 U.S.C. § 271, the right of Patent enforcement and defense, and the right to sue and/or collect for past damages.


- X. **“Software”** means any computer code (such as a source code or object code, open or closed), program, app, application, and/or instruction set for computers and the like, in any computer language, that provides a service or a function. Software includes such code, program, and set regardless of the manner in which fixed, whether in hardware, Software, firmware or otherwise. Software may be wholly original or be derivative in nature.
- Y. **“Service Mark”** means any word, name, nickname, abbreviation, symbol, logo, insignia, seal, crest, design or any combination thereof adopted and used to advertise or promote a service and to distinguish that service from that of another.
- Z. **“Trademark”** means any word, name, nickname, abbreviation, symbol, logo, insignia, seal, crest, design or any combination thereof adopted and used to identify the source of goods and distinguish them from those manufactured or sold by others.
- AA. **“Trade Secret”** means any type of information that (a) derives independent economic value, actual or potential, from not being generally known to or not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use of the information, and (b) are the subject of reasonable efforts to maintain its secrecy, including, without limitation, business plans or strategy, customer lists and information, Data, formulas for manufacturing a product, manufacturing processes, marketing techniques or Software.
- BB. **“Work”** means any original work of authorship fixed in a tangible or intangible form of expression, in whatever form (regardless of media or format, including, without limitation, oral, electronic or on paper), and protectable by Copyright, including, without limitation, abstracts, architectural designs, articles, audiovisual presentation, dissertation, digital works, images, Institutional Works, manuscripts, mask works, photographs, research protocols, scholarly publications, syllabi, textbooks, theses, treatment protocols, semiconductor chips, Software, web page and web site designs and protocols.

**IMPLEMENTATION**

**I. OWNERSHIP OF INTELLECTUAL PROPERTY**

A. Ownership of Intellectual Property in General

Except as otherwise provided in this policy, the Hospital owns all Intellectual Property of Hospital IP Personnel, including any Inventions conceived, reduced to practice, or developed in whole or in part by Hospital IP Personnel in the course of research, teaching, clinical duties, or other Hospital duties or activities or involving the use of Hospital Resources and Hospital IP Personnel hereby irrevocably assign all right, title and interest in and to such

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Intellectual Property.

1. It is presumed that Hospital IP Personnel in conceiving, reducing to practice, or developing any Intellectual Property utilized Hospital Resources, unless the Hospital IP Personnel is able to prove by clear and persuasive evidence to the satisfaction of the Hospital that: (a) the Intellectual Property was conceived and developed entirely outside the scope of the Hospital IP Personnel's relationship with the Hospital, entirely on their own time, outside the scope of the Hospital IP Personnel's area of expertise for which they are employed by the Hospital, and without the use of any Hospital Resources; and (b) no other Hospital IP Personnel participated in the conception or development of the Intellectual Property within the scope of their relationship with the Hospital, on Hospital time, or using Hospital Resources. The Hospital will exclude as de minimis incidental and limited use of Hospital computers, email, and telephones in determining whether Hospital Resources were used, but such use may bear on other issues such as whether the Intellectual Property was conceived and developed entirely outside the scope of the Hospital IP Personnel's relationship with the Hospital and entirely on their own time.
  
2. When an Inventor of Intellectual Property has created Intellectual Property and believes that the Intellectual Property was created wholly outside the scope of this Policy, the Inventor must promptly advise the Office of Technology Transfer (OTT) of the creation of the Intellectual Property and provide the OTT with any information requested by OTT as necessary to determine whether the Hospital has an interest in such Intellectual Property. The OTT may require additional information from the Inventor and/or may conduct such additional investigation as it considers appropriate. After receiving the requested information and/or completing any additional investigation, the OTT will make a determination as to whether the Intellectual Property was created wholly outside the scope of this policy. The Chief Scientific Officer (CSO) or their designee may conduct additional investigation if they desire and then make a final determination. If it is determined by the OTT, or CSO if the CSO conducts additional investigation that the Intellectual Property was created wholly outside the scope of this policy, the OTT will provide the Inventor with a letter that the Hospital has no right, title or interest in the Intellectual Property. The OTT may condition the release of such a letter on all of the Inventors executing an attestation, in form and substance acceptable to the OTT with respect to the facts and acknowledging their obligations under this policy.

**B. Agreements Affecting Ownership**

It is Hospital policy to avoid entering into agreements with third parties containing terms that provide to third parties ownership of the Hospital's rights in, to or under Intellectual Property developed, in whole or in part, by Hospital IP Personnel and/or using Hospital Resources. However, where the Hospital enters into an agreement that affects ownership, including where the Intellectual Property results from sponsored research or other sponsored work involving agreements or arrangements that control the Intellectual Property, the terms of the applicable agreements or arrangements will determine the ownership of, and rights to, affected



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Intellectual Property.

C. Restriction on Third Party Agreements

The Hospital's Conflicts of Interest Policy requires advance review and approval of outside consulting relationships. See the Hospital's [Conflicts of Interest Policy \(A-3-1\)](#). Examples of consulting relationships and other outside activities requiring advance review and approval include, but are not limited to, engagements to serve: as a member of a scientific advisory board or data safety monitoring board; as a speaker or moderator at a company-sponsored event; on the company's speakers' bureau or at a company-sponsored focus group; or as an adviser or consultant to a company in connection with its research or products. The review and approval is to ensure compliance with applicable laws, regulations, and internal policies, and to protect the Hospital's rights, including Intellectual Property rights.

D. Freedom from Third Party Claims

It is the responsibility of Hospital IP Personnel prior to engaging in research, consulting or other work, to ensure that the Intellectual Property generated by such activities, including the rights to any Invention conceived or reduced to practice during such research, consulting or other work is free of claims of third parties. Hospital IP Personnel may not enter into any agreement that abrogates or limits the Intellectual Property rights of the Hospital or the obligations of Hospital IP Personnel to the Hospital. Where any Hospital IP Personnel (i) intends to engage in research funded by entities other than Hospital, (ii) intends to collaborate, with investigators from corporations or institutions other than Hospital, or (iii) has any reason to believe that others may make a claim of ownership to Intellectual Property stemming from their research or consulting work, then such Hospital IP Personnel must notify the OTT of such circumstances at the earliest feasible time and far enough in advance so that potential issues concerning the rights to such Intellectual Property can be resolved before their conception or reduction to practice or other creation.


II. **ADMINISTRATION OF INTELLECTUAL PROPERTY**

A. Implementation of Procedures

All Hospital IP Personnel will comply with procedures established by the IPA and/or the CSO or their designee related to the disclosure and/or administration of Intellectual Property.

B. Disclosure Requirement and Evaluation

In order to preserve the Hospital's rights to Intellectual Property, and to assure compliance with the relevant Patent and Copyright laws, all Intellectual Property and supporting or underlying Data relating to Intellectual Property are to be disclosed fully and as promptly as feasible by each Inventor to the OTT by completing an Invention Disclosure Form or other

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applicable disclosure available from the OTT and/or online on the Hospital's intranet. Upon receipt of an Invention Disclosure, the Hospital through its OTT will, in its sole discretion, decide upon the method for evaluating and administering the subject Intellectual Property.

C. Invention Disclosure Necessary to Avoid Forfeiture

Failure to disclose Inventions in advance of public disclosure may result in the irrevocable loss of rights to the Invention in the United States or in foreign countries pursuant to their respective patent laws as well as risks related to the terms of the grants and contracts related to such Invention. Therefore, Hospital IP Personnel are required to disclose Inventions, with as much advance notice as possible to enable the OTT to obtain any protection as is necessary. Public disclosure includes disclosing orally, in a poster, abstract, grant application, publishing in print or online, posting on any website, commercially using or offering the Invention for sale. Hospital IP Personnel should consult the OTT with regard to any questions regarding disclosure of Inventions.

D. Intellectual Property Assignment Agreement

All Hospital IP Personnel agree and are required to execute an Invention Assignment Agreement and any other forms acknowledging the Hospital's rights pursuant to this policy, as a condition of employment, use of Hospital Resources and when requested by the Hospital to do so. The Invention Assignment Agreement is available from the OTT. Irrespective of whether they have signed the Invention Assignment Agreement, all Hospital IP Personnel acknowledge that they are bound by this Policy, as amended from time to time, by accepting or continuing employment by the Hospital or using Hospital Resources.

E. Assistance and Involvement in Protecting and Commercializing Intellectual Property

Where the Hospital owns Intellectual Property, pursuant to this Policy, each Inventor will: (a) assign to the Hospital their right, title, and interest in, to and under Intellectual Property; (b) execute and provide assistance with Patent and Copyright applications and related documents relating to the Intellectual Property when requested by the Hospital; (c) execute such other agreements and undertakings as the Hospital believes to be reasonably necessary or appropriate to protect Intellectual Property; (d) give all reasonable help in the procurement, maintenance, and enforcement of the Intellectual Property; and (e) otherwise reasonably assist the Hospital and/or its assignee(s) in securing and maintaining of all Intellectual Property in the name of the Hospital (or its assignee). Inventors shall also cooperate with the OTT in commercialization of Intellectual Property. Inventors shall not negotiate with or make commitments to third parties that purport to convey rights to Hospital-owned Intellectual Property and any such commitment shall be null and void unless signed by the IPA or an authorized senior Hospital representative.

F. Procedures For Protection of Inventions

With respect to Inventions, the Hospital may elect in its sole discretion whether or not to seek Patent protection, or pursue any other alternative procedures intended to protect, maintain, and best fulfill the objectives of this Policy. The IPA or its designee, will make all decisions with respect to the preparation and filing, prosecution, reexamination, reissue, licensing, and/or enforcement of Patent applications and/or Patents that are the subject of this Policy, and has the right to make the final decision whether or not, and upon what terms, to begin, settle, or terminate any dispute, litigation, or other matter arising pursuant to this Policy.

G. Commercialization of Intellectual Property

In cases in which the Hospital seeks to commercialize Intellectual Property, OTT will generally seek to license or otherwise arrange for the commercial development of such Intellectual Property. OTT will work with Inventors to find prospective licensees. To the extent practicable, OTT will notify Inventors employed by the Hospital of prospective licensees in an early state of the negotiation process. If an Inventor objects to the prospective licensee, they may file a written protest with the IPA, or their designee, who will consider the submission and render a written decision within thirty (30) days thereafter. The final decision on whether to license an Invention, to whom to license the Invention, the terms in the agreements related to the license, and otherwise how to proceed with the license rests with the IPA.

H. Formation of New Companies Based Upon Hospital-owned Intellectual Property

The Hospital may determine that it is desirable for a new company to be formed in order to commercialize Intellectual Property. The Hospital will determine the appropriate role for the Hospital in such new companies, which, in most cases, would be limited to roles that do not involve managing the company. The Hospital is sensitive to conflicts of interest and conflicts of commitment and has established criteria and processes to address potential conflicts of interest. See the Hospital's [Conflicts of Interest Policy \(A-3-1\)](#). It is at the Hospital's sole discretion whether the Hospital forms a new company.

I. Limitation of Hospital Liability

The Hospital will not be liable for any damages resulting from any acts or omissions relating to any Intellectual Property, including administrative and/or legal errors in its assessment of Intellectual Property, the failure to properly protect Intellectual Property (including with respect to prosecuting Patents, Trademarks, Service Marks and Copyrights), agreements entered into or that are not entered into with respect to sponsored research, licensing or other matters, failure to notify an Inventor of decisions such as not to seek Patent or other protection, failure to notify an Inventor of licensing negotiations, failure to release rights in Intellectual Property on a timely basis to an Inventor or any other matter relating to the subject matter of this Policy or to Intellectual Property of the Hospital or Hospital IP Personnel.

J. Use of Hospital Name, etc.

Nothing in this Policy is intended to confer rights in or authorize the use of the name, Trademarks, or Service Marks of the Hospital, or of other Intellectual Property of the Hospital except as specifically allowed pursuant to this Policy. Any commercial use of the name, nickname, abbreviation, logo, Trademarks, Service Marks or other identifying terms, symbols

or marks of the Hospital, or of other Intellectual Property of the Hospital, except as specifically allowed pursuant to this Policy, without prior written consent is strictly prohibited.

K. Other Situations

This Policy applies to all Hospital IP Personnel. It does not attempt to deal in detail with every possible situation that might arise, but rather to provide general guidelines that will be supplemented and interpreted on a case-by-case basis by the CSO or their designee, in a manner consistent with the objectives of this Policy.

L. Laboratory Notebooks, etc.

Laboratory notebooks and other documents, in whatever form (regardless of media or format, including, without limitation, oral, electronic or on paper), pertaining to Hospital research activities are the property of the Hospital and are required to be available to the Hospital at all times and may be copied and/or used by the Hospital without limitation for the purposes of this Policy and for other appropriate purposes. Hospital IP Personnel who leave the Hospital must make arrangements, prior to leaving, with the IPA or their designee, that assure the continued availability of laboratory notebooks and other documents to the Hospital as the Hospital considers appropriate. Where the Hospital requires the original materials, copies will be made available to Hospital IP Personnel. The [Hospital Research Data Ownership and Management Policy](#) provides further requirements related to laboratory notebooks and research data.

M. Failure to Cooperate

All Hospital IP Personnel are required to cooperate fully and honestly with respect to all matters that are included in this Policy, including those involving the disclosure, evaluation, protection, and commercialization of Intellectual Property, determining the relative rights and equities of parties, and disputes relating to Intellectual Property. Failure to cooperate may result in a loss of rights, including the loss of the right to share income from Intellectual Property, and can result in the termination of employment, termination of membership on the Hospital Medical and Research Staffs, and/or loss of the right to participate in research, apply or receive research grants, contracts or awards, or use Hospital Facilities, Hospital Funds or other Hospital Resources.

N. Prior Versions of Patent Policy

Invention Disclosures submitted to OTT on or after the Effective Policy Date are subject to this Patent Policy as of the Effective Policy Date. Invention Disclosures submitted to OTT prior to the Effective Policy Date are subject to the version of this Patent Policy in effect on the date of such Invention Disclosure is received by OTT and as further provided in the following paragraph.

Intellectual Property with an Invention Disclosure prior to November 1, 2006, and on or after July 20, 2000, and certain Intellectual Property prior to that date, is subject to the 2000 Policy. For Intellectual Property having an Invention Disclosure Date between July 1, 2005 and October 31, 2006, inclusive, Hospital IP Personnel were given the opportunity to irrevocably elect to have the Intellectual Property subject to the 2006 Policy in lieu of the 2000 Policy, subject to a process set forth in the 2006 Policy.

III. **DISTRIBUTION OF INCOME**

A. Income Distributions Generally

Income from the licensing or other commercialization of Intellectual Property will be distributed as set forth in this Section III; provided, however, Program Income, as defined by the Hospital's [Policy on Program Income](#) as in effect from time to time, is not subject to distribution pursuant to this Section III, and any distribution of income from Program Income is governed by that policy. All Income distributed pursuant to this Section III, other than the Inventor Share, is to be used in support of research activities.

B. Distribution: Net Income

Net Income will be distributed as follows:

1. Inventor Share (see Section III.E.)	30.0%
2. Inventor Laboratory Share (see Section III.F.)	12.5%
3. Inventor Department Share (see Section III.G.)	12.5%
4. Hospital Research Share (see Section III.H.)	45.0%

This Net Income sharing schedule pertains to amounts stemming from each item of Intellectual Property or collection of related Intellectual Property (such as from each Invention or collection of related Inventions). Where such Intellectual Property is licensed pursuant to a single licensing or commercialization agreement, whether prospectively or retrospectively, this schedule applies once as to income stemming from such agreement (and not successively as later improvements or enhancements may occur). Net Income of less than one thousand dollars (\$1,000) in any fiscal year will not be distributed in accordance with Section III.B. and will be treated solely as Hospital Research Share.

C. Distribution: Equity

The proceeds from the monetization of Equity received by the Hospital from the licensing or transfer of Intellectual Property will be distributed to Inventors as Inventor's Share in accordance with Sections III.B. and III.E., if permitted under conflict of interest policies and management plans. However, exception to this may arise in certain circumstances, such as when an Inventor receives founders' Equity, or other consideration from the licensee. In such situations, the CSO, or their designee, will determine how such equity will be treated in calculating and distributing Net Income in accordance with this Policy.

D. Distribution: Research Tools and Materials

1. Research tools and materials include, among other things, Biological Material that can be licensed whether or not patentable. If a Patent has been issued on such research tools and material or a Patent application has been filed by Hospital and is still pending, distribution shall be as set forth in Section III.B. above. If such research tools and materials are not patentable, OTT may determine they may fall under the Program Income Policy; in which case any income from licensing will be distributed as per that Program Income Policy as described in Section III.D.2. OTT will consult with the Inventor of the research tool and material prior to determining the distribution.
2. As per the Program Income policy, ninety percent (90%) of the Net Income from the licensing of research tools or materials may be distributed to the Inventor Laboratory Share and 10% to the Hospital Research Share, provided however, that such distribution

is capped at one hundred thousand dollars (\$100,000.00) over the lifetime of the commercialization. When the total Net Income exceeds one hundred thousand dollars, the distribution of Net Income shall take place in accordance with Section III.B. herein.

#### E. Inventor Share

The Inventor Share, as set forth in Section III.B., is the total amount payable to all Hospital IP Personnel who are Inventors of the Intellectual Property generating the Net Income.

1. If there is only one such Inventor, the total Inventor Share is payable to that person.
2. Where there is more than one Inventor, Net Income shall be distributed evenly among the Inventors unless all such persons unanimously agree in writing how Inventor Share of the Net Income should be distributed among them (by executing, and submitting to the IPA or their designee, the Hospital's Inventors Agreement for Distribution of Net Income), prior to the Hospital entering into a licensing or other agreement that may result in Gross Income. If such an Agreement is executed by all Inventors who are Hospital IP Personnel, then the Net Income will be distributed in accordance with such agreement. This Agreement of Distribution of Net Income may be submitted to the IPA any time after submission of an Invention Disclosure to the OTT, provided, however, that the distribution shall not be modified retroactively once Net Income has already been distributed.
3. Where there is more than one Inventor, and all such persons have not unanimously agreed on the distribution by executing and submitting the Hospital's Inventors Agreement for Distribution of Net Income prior to the Hospital entering into a licensing or other agreement that may result in Gross Income, then the IPA, or their designee, will determine an appropriate allocation of Net Income among the Inventors. Any affected Inventor may appeal the allocation to the President & CEO in accordance with Section V.
4. Each Inventor will be entitled to receive their Inventor Share of Net Income in accordance with this Policy whether or not they remain Hospital IP Personnel. In the event of the death of an Inventor, such Net Income will be paid to their estate.

#### F. Inventor Laboratory Share

The Inventor Laboratory Share of Net Income, as set forth in Section III.B., is the total amount that may be available to the principal Hospital laboratory or laboratories of the Inventors of the Intellectual Property generating the Net Income. The Inventor Laboratory Share of Net Income shall be utilized for the direct performance of research activities.

1. The total Inventor Laboratory Share is limited to a maximum of Three Hundred and Fifty Thousand Dollars (\$350,000) available for any given July 1 fiscal year, irrespective of the number of principal Hospital laboratories involved. Half of any excess above the maximum with respect to any fiscal year is added to the Inventor Department Share and the other half is added to the Hospital Research Share.
2. If there is more than one Inventor and they share the same principal Hospital laboratory, then the total Inventor Laboratory Share is available to that principal Hospital laboratory. If there is only one Inventor and such person leaves the Hospital, or if all of the Inventors share the same principal Hospital laboratory and all such persons leave the Hospital, the Inventor Laboratory Share is added to the Inventor Department Share.

3. Where there is more than one Inventor and they do not share the same principal Hospital laboratory, then the Inventor Laboratory Share is available to their respective principal Hospital laboratories in the same proportion that the Inventor Share is allocated among them. In the event that one or more of the Inventors leave the Hospital, but at least one Inventor remains, then the Inventor Laboratory Share is available to the principal Hospital laboratories of the remaining Inventors in the same proportion that the Inventor Share is allocated among them without regard to the Inventor Share of the leaving Inventor(s). If all of the Inventors leave the Hospital, the Inventor Laboratory Share is added to the Inventor Department Share.
4. Where an Inventor does not have a principal Hospital laboratory, or remains at the Hospital but ceases to have a principal Hospital laboratory, the Inventor Laboratory Share attributable to such person is added to the Inventor Department Share.
5. In the event that Inventors are students, residents, fellows, post-docs, trainees, technicians, occupants of the Hospital laboratories, or volunteers of the Hospital, their principal Hospital laboratory is the laboratory, if any, in which they worked resulting in their becoming Inventors. Where they do not have a principal Hospital laboratory, the Inventor Laboratory Share attributable to such person is added to the Inventor Department Share.
6. The principal Hospital laboratory of an Inventor is determined as of March 31 with respect to the amount of Inventor Laboratory Share received by the Hospital in the immediately prior calendar year. If an Inventor changes principal Hospital laboratories after March 31, the principal Hospital Laboratory for purposes of the Inventory Laboratory Share for the upcoming July 1 fiscal year remains that in effect on March 31, but the succeeding year's principal Hospital Laboratory for purposes of the Inventory Laboratory Share is determined based on the principal Hospital Laboratory of the Inventor as of the succeeding March 31.

G. Inventor Department Share

The Inventor Department Share of Net Income, as set forth in Section III.B., together with any amounts added to the Inventor Department Share in accordance with Section III.D., is the total amount that may be available for research purposes to the primary Hospital Department or Departments of the Inventors of the Intellectual Property generating the Net Income. For purposes of the Inventor Department Share, a Department is a clinical department of the Hospital, currently the Departments of Anesthesiology & Critical Care Medicine, Child & Adolescent Psychiatry & Behavioral Health, Pathology & Laboratory Medicine, Pediatrics, Radiology, and Surgery.

1. The total Inventor Department Share, including any amounts added to the Inventor Department Share in accordance with Section III.D. is limited to a maximum of Five Hundred Thousand Dollars (\$500,000) available for any given July 1 fiscal year, irrespective of the number of primary Hospital Departments involved. Any excess above the maximum with respect to any fiscal year is added to the Hospital Research Share.
2. If there is only one Inventor, or if there is more than one such Inventor and they share the same primary Hospital Department, then the total Inventor Department Share is available to that primary Hospital Department. If there is only one Inventor and such person leaves the Hospital, or if all of the Inventors share the same primary Hospital Department and all such persons leave the Hospital, the Inventor Department Share remains with the Inventor Hospital Department.
3. Where there is more than one Inventor and they do not share the same primary Hospital Department, then the Inventor Department Share is available to their respective primary

Hospital Departments in the same proportion that the Inventor Share is allocated among them. In the event that one or more of the Inventors leave the Hospital, the Inventor Department Share remains with the Inventor Hospital Departments.

4. Where an Inventor does not have a primary Hospital Department, the Inventor Department Share attributable to such person is added to the Hospital Research Share.
5. In the event that Inventors are students, residents, fellows, post-docs, trainees, technicians, occupants of the Hospital laboratories, volunteers of the Hospital, their primary Hospital Department is the Department to which they are assigned, if any. Where they do not have a primary Hospital Department, the Inventor Department Share attributable to such person is added to the Hospital Research Share.
6. The primary Hospital Department of an Inventor does not change for a specific piece of IP for purposes of the Inventor Department Share even if an Inventor changes primary Hospital Departments. If new Intellectual Property is created by the Inventor after they have changed primary Hospital Departments and such Intellectual Property is licensed thereafter, the Inventor Department Share for such new IP will be distributed to the new Hospital Department.

#### H. Hospital Research Share

The Hospital Research Share of Net Income, as set forth in Section III.B., together with any amounts added from the Inventor Laboratory Share and Inventor Department Share is the amount available to the Hospital for research purposes, to be expended as determined by the President & CEO, or their designee. If established, such fund will not constitute an endowment and is available to be used for research purposes as determined by the President & CEO, or their designee.

#### I. Sale of Revenue Stream

Should the Hospital decide to sell the revenue expected to be generated from the licensing or other commercialization of Intellectual Property, or otherwise monetize the value of Intellectual Property, the Inventor Share of Net Income will be based on the monies received, and the President & CEO, or their designee, will determine, in their absolute discretion, how the Hospital will calculate the Inventor Laboratory Share and the Inventor Department Share.

#### J. Acceptance of Equity in License Transactions

The Hospital will consider, in appropriate cases, whether to accept Equity in lieu of, or in addition to, other compensation for Intellectual Property. Acceptance of Equity shall be in compliance with Hospital policies on conflicts of interest and commitment and other applicable Hospital policies. In general, the Hospital will accept Equity under the following guidelines:

1. Acceptance of Equity must be approved by the CSO or their designee and shall generally be made in consultation with the Conflicts of Interest Office, the General Counsel, and the Chief Financial Officer.
2. The negotiation of Equity transactions shall be at arm's length and the prospective licensee must be represented by a party other than an Inventor (or family member) or Hospital unit or similar organization within the Hospital.
3. The prospective licensee must disclose to the Hospital all Equity offered to the Hospital as



well as to other institutions or individuals who may be Inventors or co-own an Invention with the Hospital. In addition, the prospective licensee will be required to disclose in writing to the Hospital the specific terms and conditions associated with such Equity, and the current and prospective capital structure of the venture. Furthermore, the prospective licensee and the Inventors must disclose to the Hospital in writing the Equity to be issued to Inventors for their role as founders, consultants or otherwise.

K. Timing of Distribution of Net Income

Upon receipt of Gross Revenues, the OTT will initiate distribution of Net Income. Net Income will be distributed on a quarterly basis, with amounts received by the end of the second month of a calendar quarter distributed on or about the end of that quarter. Alternatively, the IPA, or their designee, may elect to distribute Net Income upon its receipt by the Hospital. The IPA will inform Inventors and other interested parties of any exceptional circumstances that may result in a delay in distribution.

IV. **THE INSTITUTIONAL INTELLECTUAL PROPERTY ADMINISTRATOR**

A. Intellectual Property Administrator

The Chief Scientific Officer shall designate the Intellectual Property Administrator (IPA). As of the Effective Date of this Policy, the IPA shall be the Vice President, Technology Transfer, Innovation, and Research Contracts.

B. Duties of IPA

The IPA has the following responsibilities with respect to the OTT as it relates to Intellectual Property, including, without limitation, Inventions and Copyrights, and the administration of this policy:

1. To administer this policy, provide general guidance regarding the policy, and promote the fair and uniform application of this policy;
2. To establish liaison with appropriate investigators and staff to monitor research and to assist in the identification of Intellectual Property developed by Hospital IP Personnel, including Inventions;
3. To receive all disclosures of Intellectual Property, including Inventions;
4. To determine, in accordance with this policy, the ownership of Intellectual Property developed by Hospital IP Personnel or involving the use of Hospital Resources, the date that specific Intellectual Property within the scope of this policy is conceived, disclosed, and reduced to practice, and the relative rights and equities of parties involved in the creation of Intellectual Property;
5. In consultation with the Inventor(s) to evaluate Intellectual Property in which the Hospital has an interest, including possible commercial uses and potential marketing opportunities;
6. To seek to license or otherwise commercialize Intellectual Property in which the Hospital has an interest, as appropriate, including the negotiation of licenses and agreements;

7. To establish liaisons with governmental and private sponsors of research to ensure compliance with provisions in sponsored research and other sponsored agreements regarding Intellectual Property;
8. To work through the Office of General Counsel, to protect specific Intellectual Property in which the Hospital has an interest, including the filing of Patents and Copyrights;
9. To determine the sharing of Net Revenue in accordance with this policy with respect to specific Intellectual Property subject to this policy;
10. To determine when Intellectual Property should be returned to the Inventor(s);
11. To assist in obtaining funds for research that may result in the creation or further development of Intellectual Property;
12. To maintain complete records regarding disclosures of Intellectual Property, actions taken with respect to the protection of Intellectual Property, the dates that specific Intellectual Property within the scope of this policy is conceived, disclosed, and reduced to practice, the appropriate distribution of Net Income from Intellectual Property in which the Hospital has an interest, the resolution of contested matters, and other matters relating to this policy;
13. To review this policy periodically with the Office of General Counsel to determine whether changes should be made;
14. To report to the Hospital, including the Board of Trustees or subcommittee of the Board designated by the Board, on matters bearing on Intellectual Property and this policy;
15. To seek counsel, as appropriate, from CSO on the prioritization of investments in the Hospital's technology portfolio, licensing strategies, and other matters;
16. To assure that Intellectual Property administration complies with Bayh-Dole and other legal requirements;
17. To establish procedures relating to the disclosure and administration of Intellectual Property. These procedures may include the submission of manuscripts, papers, grants, notes, workpapers, summaries of oral presentations, and other information designed to facilitate the disclosure, evaluation, and/or protection of Intellectual Property; and
18. To seek legal advice and counsel from the Hospital's Office of General Counsel, and when it is agreed that the assistance of outside counsel is desirable, to work with the General Counsel of the Hospital, or their designee attorney in the Office of General Counsel, to select patent, licensing, and/or other counsel to assist the Hospital's research enterprise, including the OTT.

C. Accountability of the IPA

In fulfillment of their responsibilities, the IPA is accountable to the CSO and to the President & Chief Executive Officer of the Hospital.

V. **RESOLUTION OF QUESTIONS AND DISPUTES**

Disputes arising from the interpretation or administration of this policy may be brought in writing to the CSO or their designee by any Hospital IP Personnel employed by the Hospital. Such Hospital

IP Personnel may appeal the decision of the CSO in writing, within thirty (30) days of such decision of the CSO to the CEO. The CEO, or their designee, will review the appeal, conduct any additional investigation they consider appropriate, and, within a reasonable time after receiving the appeal, render a final, binding, and non-appealable decision. A failure to timely appeal or to cooperate in connection with an appeal will result in the individual seeking an appeal losing their right to appeal.

**RESPONSIBILITY FOR MAINTENANCE OF THIS POLICY:**

CHIEF SCIENTIFIC OFFICER

<p><b>Supersedes</b></p> <p>7/1/2009</p>	<p><b>Approved by:</b></p> <p><b>Signature:</b> _____</p> <p><b>Madeline Bell – President and Chief Executive Officer</b></p>
<p>This Administrative Policy is the property of The Children's Hospital of Philadelphia and is protected by U.S. and international copyright laws and may not be used or reproduced without the prior written consent of The Children's Hospital of Philadelphia. This Policy is to be used solely by employees of the Hospital, the Hospital Medical Staff and those acting on the Hospital's behalf in connection with Hospital matters or in their Hospital duties. This Policy may not be copied, photocopied, reproduced, entered into a computer database or otherwise duplicated, in whole or in part in any format. Any personal or other use is strictly prohibited.</p> <p style="text-align: center;">The Children's Hospital of Philadelphia © 2022 All Rights Reserve</p>	

## Appendix A

### Requesting Release of an Invention or any related Intellectual Property

If the Hospital declines to apply for a Patent or commercialize an Invention or any related Intellectual Property within a reasonable period of time after the full and complete disclosure (as determined by the IPA) of such Intellectual Property to the OTT, or, if after the OTT has filed a Patent application, the OTT decides to abandon Patent prosecution, an Inventor may request in writing, directed to the OTT, that the OTT release the Inventor's rights to the Intellectual Property to the Inventor. The OTT, will review the request and make a recommendation to the IPA, which will make the final determination. The determination will be based on multiple factors including but not limited to the stage of development, commercialization potential, feasibility for managing conflicts of interest, and other relevant factors including rights and restrictions in funding and other agreements related to the Intellectual Property. If the IPA determines that the Invention should be released to the Inventor, the OTT will release the Hospital's interest in the subject Invention and the terms and conditions of the release will be set forth in a written agreement between the Hospital and the Inventor(s). The Inventor will be free to apply for a Patent in their own name and at their own expense, subject to the terms and conditions of the release.

1. The release of Intellectual Property is not a release of improvements, enhancements or derivatives of the Invention; and the Inventor is obligated to disclose and assign such improvements, enhancements and derivatives and any other Intellectual Property as new Intellectual Property pursuant to this policy. Such release of Intellectual Property is limited to the Intellectual Property specifically named in the applicable disclosure form.
2. The release of Intellectual Property must be reported to the Hospital Conflicts of Interest Office for the possible creation of a conflict management plan in order for the Inventors to continue performing research based on the Intellectual Property.
3. As a condition of the Hospital's release of the Intellectual Property, each Inventor shall acknowledge that the transfer of the Hospital's interest in the Intellectual Property may raise issues under applicable Hospital policies, including, without limitation, its conflict of interest policies and restrictions on use of Hospital facilities and assets for private purposes, and that the release of Intellectual Property does not constitute a waiver of any term in any Hospital policy or its applicability to the Inventor. Each Inventor shall execute any forms required by OTT to memorialize this acknowledgment. The Inventor will agree not to use Hospital Resources or Hospital time or assets to further develop, protect or commercialize the released Intellectual Property, unless permitted after review by the Hospital Conflict of Interest Committee, and approved by the Chief Executive Officer or their designee.
4. If the Hospital releases the Inventor's rights to specified Intellectual Property and the Inventor subsequently licenses or otherwise commercializes the Intellectual Property, the Inventor is required to distribute to the Hospital ten (10) percent of the Net Income and a percentage of any Equity or other thing of value received (or receivable) by the Inventor for so long as the Inventor receives (or is able to receive) Gross Income, Equity or other value for the Intellectual Property. The Inventor is required, upon request by the Hospital, to provide the Hospital with information regarding the Inventor's efforts to commercialize the returned Intellectual Property and the gross compensation received.
5. If the Hospital releases the Inventor's rights to their Invention, the Inventor is required to grant, and is deemed to have granted, to the Hospital a royalty-free, irrevocable, non-exclusive license to make, use or practice the Intellectual Property for the purposes of the

Hospital and to permit other academic institutions and not-for-profit research institutions to make, use or practice the Intellectual Property for research, educational and clinical care purposes.

6. If the Hospital releases an Inventor's rights, but there is more than one Inventor, the Hospital will release an undivided interest, as defined by United States Patent laws, to each Inventor unless directed otherwise in writing by all the Inventors prior to such release.
7. Each Inventor will, and will cause any licensees or third persons participating in the development and commercialization of the Intellectual Property that the Hospital has released to the Inventor to, indemnify the Hospital from any claims arising out of or resulting from or in connection with such Intellectual Property and its development and commercialization. The Hospital will transfer its right, title and interest as is, without any warranties.

Appendix B  
Copyright Policy

All rights in Copyright generally remain with the Author(s) unless the Work is an Institutional Work.

1. Traditional Works

In keeping with academic tradition, the Hospital does not, except as set forth herein, claim ownership of books, articles, and similar works that otherwise contain no Intellectual Property owned by the Hospital, where the intended purpose is to disseminate the results of academic or scholarly activities by Hospital IP Personnel. Such works include those of students created in the course of their educations, such as dissertations, papers, and articles. By way of example, Copyright in an article submitted to a scholarly or professional journal normally vests in the Author(s) of the contribution initially, and may be transferred to the publisher by express agreement. Similarly, the Hospital claims no ownership of popular nonfiction, novels, poems, musical compositions, or other works of artistic imagination that are not Institutional Works.

2. Institutional Works Protectable by Copyright

The Hospital retains ownership of all Institutional Works and resulting Intellectual Property. Examples of Institutional Works could include, without limitation, a book written by Hospital IP Personnel that would have met the requirements of Section 1 above; except that it was (i) written with more than insubstantial assistance from other Hospital IP Personnel during periods when they were acting within the scope of their relationship with the Hospital; (ii) created using Hospital Resources; or (iii) created by Hospital IP Personnel during periods they are supposed to be performing their assigned Hospital duties (i.e., in dereliction of their Hospital duties); or (iv) otherwise subject to third party contractual obligations. With respect to Works commissioned directly or indirectly by the Hospital, it is the responsibility of all Hospital IP Personnel to work with the appropriate Hospital office to ensure that all non-Hospital IP Personnel sign an appropriate written agreement conveying ownership of Institutional Works and Copyrights therein and thereto to the Hospital. Failure to obtain such agreement does not adversely impact any rights the Hospital has in such Institutional Works and Copyrights.

Software is an Institutional Work unless determined otherwise by OTT. If OTT determines that Software is not an Institutional Work, the Hospital shall have a royalty-free right to practice such Software for any purpose.

3. Copyright Registration

The Hospital determines if and when to file a Copyright registration for Institutional Works. Copyright registrations for Institutional Works may only be filed by the appropriate Hospital official or their designee.