

FONDS DE LA RECHERCHE EN SANTÉ DU QUÉBEC

**Policy on knowledge
transfer within university
affiliated health institutions
(hospitals)**

Policy on Knowledge Transfer within university affiliated health institutions (hospitals)

Report of Task force on the transfer of knowledge developed
by researchers within university affiliated health institutions

Adopted by the FRSQ Board of Directors
February 13, 2001

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Notes:

- 1) The FRSQ Board of Directors, meeting on February 2, 2001, adopted this *Policy on Knowledge Transfer within university affiliated health Institutions* to provide general direction and guidance for FRSQ funded research centres and institutes. This policy is in line with those principles in *the Politique québécoise de la science et de l'innovation* (MRST, janvier 2001)

This document, which was released two years ago, was produced by a committee of the ministère de la Santé et des Services sociaux (Department of health and social services). The FRSQ therefore recommends that the research centres and institutes which it funds use this document for general guidance. FRSQ funding in future will be contingent upon compliance with this policy.

- 2) Policy enforcement is consistent with the *Action plan for the management of intellectual property in universities and institutions of the health and social services network which host research activities*, ministère de la Recherche, de la Science et de la Technologie, July 2002.

MESSAGE FROM COMMITTEE CHAIRMAN

This policy statement provides principles and guidelines to help health institutions and universities negotiate titles and share of benefit resulting from research performed within university affiliated health institutions.

This policy is not a set of strict rules but is instead a reasoned approach emerging from a committee of thinkers in the wake of wide-ranging consultation. It is already the basis for current negotiations in many hospital-based research centres. It is in line with those principles of the «Politique québécoise de la science et de l'innovation» from MRST, January 2001.

Michel Bureau
Chairman

Policy on knowledge transfer within university affiliated health institutions (hospitals)

FRAMEWORK

Institution/university partnership

The *Act respecting Health Services and Social services* tasks university affiliated health institutions (CHU, centre hospitalier universitaire - IU, institut universitaire – CAU, centre affilié universitaire) with a mission of service, teaching, research and technology evaluation. Under that legislation, particularly as regards the research component of its mission, a health institution is required to "manage a research centre or research institute recognized by the Fonds de la recherche en santé du Québec" and to enter into partnership with the university through a contract of affiliation approved by the institution, the university and the Minister of Health and Social services.

University affiliated health institutions hold a mandate with respect to public funds, meaning that their boards of directors are accountable to the public for carrying out the four-pronged institutional mission and employing the allocations it receives for those purposes.

As prescribed in the Act and the contract of affiliation, university representation on the board of directors and within other policy making bodies of a university affiliated health institution ensures the university's presence and involvement in the decision making structure and operation of that institution. Consequently, the institution and the university are able to embark on the ongoing partnership needed to pursue the mission of the institution, satisfy the academic requirements of the university and afford the university access to the human and material resources of the institution.

Knowledge transfer

Within the framework of clear, specific rules, university affiliated health institutions have a social responsibility to further the economic progress of Québec's health care industry, especially by protecting their breakthroughs, transferring their innovations, transferring knowledge to the health care industry, partnering with health-related businesses (through contracts, sponsorships and joint ventures) and supporting business start-ups to further develop their breakthroughs.

To ensure the development of health research despite present restrictions on public spending, university affiliated health institutions shall support the efforts of their researchers and encourage investors to fund health research. If this approach is to work, financial partners must receive a fair return on their investment, and earnings must be poured back into research.

University affiliated health institutions are responsible for ensuring they receive their fair share of the financial spinoffs from inventions, patents and copyrights. This applies as

well for university hosted researchers, as well as private sector researchers associated with institutions or making use of their human or material resources.

University affiliated health institutions are answerable to the public for all revenue they may generate through the commercialization of inventions, patents and copyrights.

University affiliated health institutions and universities shall share earnings from the commercialization of innovations, patents or copyrights on the basis of their respective financial contributions. The share of earnings accruing to researchers usually equals the combined shares of the institution and the university.

Intellectual property and related commercialization benefits shall be shared as per the rules set out in the action plan for the management of intellectual property in universities and institutions of the health and social services network which host research activities, ministère de la Recherche, de la Science et de la Technologie, July 2002.

Institution/private sector partnership

University affiliated health institutions further the economic progress of Québec by promoting linkages with industry through contracts, sponsored research and business spinoffs, especially those which valorize institutional research outcomes. Given clear, specific rules, especially regarding conflicts of interest, businesses could even start up on their own premises.

University affiliated health institutions should mandate an arm's-length undertaking to manage overall commercialization of inventions, patents and copyrights.

SHARE OF RESPONSIBILITIES

Health affiliated institution board of directors

The board of directors of a university affiliated health institution is responsible for the teaching, research and technology evaluation mission conferred by the Act and the contract of affiliation. The board of directors is accountable, among other things, for the mission, policy directions and operation of the research centre or centres within its institution.

The board of directors authorizes the start-up and incubation of businesses within the institution as per the rules it prescribes.

The board of directors is responsible for recovering the institutional portion of the financial spinoffs from commercialization of inventions, patents and copyrights.

The board of directors shall make policy for handling the conflicts of interest of its members and of non-members working within the institution.

Research centres

A research centre is an integral part of a university affiliated health institution. The institutional board of directors appoints the director of the research centre and defines its terms of reference and operating rules.

Institutions shall support their research centres in acquitting their mission and allow them the flexibility essential to their vitality and success. Consequently, they shall provide research centres with appropriate structures and access to services to transfer breakthroughs with a view to patenting and research development.

Research centres are tasked by health institution boards of directors with planning, focusing and managing resident collaborative investigations performed supported by the Fonds de la recherche en santé du Québec.

On behalf of their institution, research centres receive the general expense allocations set by departmental directive on every research contract or sponsored research undertaking performed in any Québec health institution. The directive currently in effect dates from 1995 and sets the minimum rate for general expenses at 20%, i.e., 2% for management and 18% for research performed at the centre. This rate could be harmonized with the university rate when the universities adopt a uniform minimum rate.

Researchers

The researchers of a research centre are the key to scientific breakthroughs and the driving force behind the transfer and use of its inventions, patents and copyrights, as well as business spinoffs, if applicable. It is usually in the interest of all parties concerned to support the researchers' work.

By agreeing to perform their investigations in an institutional research centre, researchers acknowledge the contribution of public monies to the funding of their investigations and are subject to the rules of the institution and the research centre and to the obligations relating to their particular employment arrangement.

Researchers are the first to reap the benefits of research spinoffs taking the form of direct personal benefits or returns on investment to pursue their work.

Researchers can be expected to protect their breakthroughs through patent or copyright.

Researchers are bound to divulge their inventions and discoveries to the institution and to identify all those who played a significant role in those breakthroughs, including predoctoral and postdoctoral students. Researchers shall also divulge their procedures for valorizing their discoveries and inventions.

The institutions are responsible for helping researchers protect and valorize their discoveries.

An invention, patent or copyright which the institution does not utilize within a reasonable time reverts to the researchers, who may use them as they see fit.

Students

The original, significant contribution of students shall be acknowledged upon valorizing breakthroughs and shall be included in the description of research outcomes.

The rules of the university responsible for the program in which students are enrolled have precedence at all times. The supervisors of research trainees shall not have those students participate in undertakings in which the supervisors have financial interests, unless the program administrators give their written consent.

HEALTH INSTITUTION/ UNIVERSITY PARTNERSHIP

Successful research and transfer of discoveries and inventions is contingent upon harmonious, synergetic relations between the university and the university affiliated health institution. Both manage public funds and bear public accountability for research spinoffs.

Considering that the research mission of university affiliated health institutions and universities depends first upon researcher recruitment and retention and that many researchers are in precarious straits, institutions and universities shall enter into agreements to afford researchers reasonable job security and a competitive career plan.

Increasingly, research is performed within a network of university affiliated health institutions, universities and industry. Health institutions shall therefore establish simple rules transferable from one institution to another so as to preserve those networks.

University affiliated health institutions and universities will establish operating rules and revise those rules on a regular basis (e.g., every five years) in light of the success of the partnership and the realized investments of each partner.

Health institutions and universities shall agree on the sharing of titles and intellectual property stemming from the research performed in university affiliated health institutions.

Health institutions and universities shall agree on a mechanism for providing technology transfer services tailored to the needs of the institutions coming under the ministère de la Santé et des services sociaux. The consultation confirms that neither the hospital network nor the university network has a satisfactory system.

Apportionment of institutional earnings and financial spinoffs from research performed in a research centre shall be established in an outline agreement. As exemplary model, an agreement allocating 50% to the researcher or researchers and 50% to the institution appears to meet with consensus. Unless the health institution and the university agree otherwise, the institutional share of 50% would be divided into three parts, i.e., a basic 12.5% for the health institution, a basic 12.5% for the university and 25% proportional to the risks and investments of each.

In negotiations with industry or the private sector, the institution, the university and the researcher shall agree to the appointment of one single representative for those negotiations.

ROLE OF THE FONDS DE LA RECHERCHE EN SANTÉ DU QUÉBEC (FRSQ)

The Fonds de la recherche en santé du Québec (FRSQ) receives its funds from the ministère de la Recherche, de la Science et de la Technologie (department of research, science and technology). Those funds, like those paid out by other granting organizations, are public monies paid out as researcher salaries or grants for research infrastructure in university affiliated health institutions. These monies may never be regarded as personal funds for the researcher. Nor are they to be counted as a researcher's personal investment in a project.

Funds paid out for salaries and research centre infrastructure are regarded as funds specific to the university affiliated health institution. FRSQ funds for projects carried out on a university campus are regarded as university funds.

The FRSQ expects health institutions and universities that post earnings from its funds to reinvest those earnings in FRSQ research centres under the heading of their choice.

CONFLICT OF INTEREST

University affiliated health institutions shall establish a policy on conflicts of interest requiring their entire research personnel and all individuals working on research within the institution to declare their interests in any enterprise linked to the research performed within the institution. In this way, those individuals will not be put in the position of making decisions to further their own interests or those of family, friends or partners. Such individuals shall provide that information in writing to the executive director or his/her duly mandated representative prior to commencing their research activities and annually thereafter.

Individuals who own interests in an undertaking and hold a position of administrative responsibility in an institution or a research centre are deemed to have stepped down from such administrative duties, unless the executive director or his/her duly mandated representative has expressly agreed to their continuing in those duties.

When a business in which an individual owns interests enters into a contract or sponsorship or makes a grant or gift to the institution or the foundation of that institution, no money from that source shall be paid, directly or indirectly, to that individual without the prior consent of the executive director or his/her duly authorized representative.

When the commitment or activity of individuals in a business could jeopardize the performance of their institutional duties, the executive director or his/her duly authorized representative shall be consulted as to the appropriateness of taking leave without pay or otherwise altering the status of such individuals.

ROLE OF INVESTORS

All investors in a research project are entitled to a return on their investment in the commercialization of an invention, patent or copyright.

University affiliated health institutions and universities shall promote the establishment of one-stop service for private investors, e.g., to streamline negotiations with them.

Private investors are entitled to expect straightforward, uniform rules from one university affiliated health institution to the next.

University affiliated health institutions shall target the implementation of rapid channels and models for valorizing breakthroughs.

BUSINESS INCUBATION (SPIN-OFF BUSINESSES¹)

Health institutions (or their research centres) cannot be changed into business conglomerates or "industrial models," for that would distract the institutions from their health research mission. Consequently, it is better for businesses to be started and located outside of health institutions.

If need be, the health institution board of directors shall define the conditions for business incubation and authorize the start-up of those businesses.

Research centres shall facilitate business start-ups and spinoffs.

Institutions shall not use public funds to finance starting businesses. Through their infrastructure, however, they may provide indirect support for businesses established to valorize the breakthroughs stemming from research performed within the centre. That participation shall be set out in a clear agreement, with fair compensation to the institution in the form of remuneration, equity participation, indirect costs or royalties, depending on the rules in effect.

The regulations governing the indirect costs of research contracts with businesses outside of university affiliated health institutions can be eased to accommodate businesses in start-up mode, especially those spun off from the institution.

In implementing this policy and any ensuing rules, the boards of directors of university health institutions shall allow a transitional period for businesses already in incubation.

All businesses in incubation mode within university affiliated health institutions shall plan to spin off from those institution within three years at most.

1. THE FRSQ Board of Directors ratified this definition of a spin-off business on May 25, 2001: "There is deemed to be established within a research centre any spin-off business established by the researchers of that centre (alone or with the aid of venture capital), whose investigations are performed wholly or mostly within the research centre hosting the founding researchers."

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