



**Article I**  
**Purpose**

The purpose of this conflict of interest policy (the “Policy”) is to protect the interests of Spina Bifida Association of America, Inc., a Wisconsin not-for-profit corporation (the “Corporation”), when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible excess benefit transaction [(as defined in Section 4958 of the Internal Revenue Code of 1986, as amended (the “Code”))]. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to not-for-profit and/or charitable organizations.

**Article II**  
**Definitions**

**Section 1. Interested Person.** An interested person is any member of the board of directors of the Corporation (the “Board”), officer of the Corporation, member of a committee of the Board, or paid staff member who has a direct or indirect interest, as defined below, in the Corporation.

**Section 2. Interest.** A person is deemed to have an interest in the Corporation if the person has, directly or indirectly, through business, investment or family:

- a. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
- b. A compensation arrangement with the Corporation or with any entity, association or individual with which the Corporation has a transaction or arrangement;
- c. A board or officer position, or other relationship giving rise to fiduciary duties, whether compensated or not, with any entity or association with which the Corporation has a transaction or arrangement (including any board or officer position with an affiliated chapter of the Corporation); or
- d. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

**Section 3. Compensation.** Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

**Section 4. Conflict of Interest.** An interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has an interest may have a conflict of interest only if the Board or a committee thereof decides that a conflict of interest exists.

**Article III**  
**Procedures**

**Section 1. Duty to Disclose.** In the event of an actual or possible conflict of interest, an interested person must disclose the existence of his or her interest and must be given the opportunity to disclose all material facts to the Directors of the Corporation or any committee thereof considering the proposed transaction or arrangement.

**Section 2. Determination of Whether a Conflict of Interest Exists.** After an interested person discloses his or her interest and all material facts related thereto, and after any discussion with such interested person related thereto, such interested person shall leave the Board or committee meeting so that the remaining Board or committee members may discuss and vote on, and take action in respect of the possible conflict of interest. After such discussion, such remaining Board or committee members shall determine whether a conflict of interest exists with respect to such interested person, such determination to be made by a regular action or vote of the Board or committee thereof in accordance with the by-laws of the Corporation.

**Section 3. Procedures for Addressing the Conflict of Interest.** The following procedures shall be followed in the case of an actual or possible conflict of interest:

- a. An interested person may make a presentation at the Board or committee meeting with respect to the transaction or arrangement giving rise to the conflict of interest. After any such presentation, the interested person shall leave the meeting so that the remaining Board or committee members may discuss, and vote on, the proposed transaction or arrangement giving rise to the conflict of interest.
- b. The chairperson of the Board or committee thereof shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement giving rise to the conflict of interest.
- c. After a diligent investigation has been performed, the Board or committee thereof shall make a determination as to whether the Corporation can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement which does not produce a conflict of interest is not reasonably obtainable under the circumstances, the Board or committee thereof shall determine by a majority vote of disinterested Directors whether the proposed transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the Board or

committee thereof shall make its decision as to whether to enter into the proposed transaction or arrangement.

**Section 4. Violations of the Conflicts of Interest Policy.**

- a. If the Board or committee thereof has reasonable cause to believe an interested person has failed to disclose an actual or possible conflict of interest, the Board or committee thereof shall inform such person of the basis for such belief and afford such person an opportunity to explain the alleged failure to disclose.
- b. If, after hearing such person's response and after making further investigation as warranted by the circumstances, the Board or committee thereof determines that such person has failed to disclose an actual or possible conflict of interest, the Board or committee thereof shall take appropriate disciplinary and corrective action.

**Article IV**  
**Records of Proceedings**

The minutes of any meeting of the Board or any committee thereof at which an actual or possible conflict of interest is discussed shall contain the following:

- a. The names of the persons who disclosed or otherwise were found to have an interest in connection with an actual or possible conflict of interest, the nature of such interest, any action taken to determine whether a conflict of interest was present and the board's or committee's determination as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of such discussions, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**Article V**  
**Compensation**

**Section 1.** A voting member of the Board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

**Section 2.** A voting member of any committee of the Board whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

**Section 3.** No voting member of the Board or any committee thereof whose jurisdiction includes compensation matters and who receives compensation, directly or

indirectly, from the Corporation is prohibited from providing information to the Board or any committee thereof regarding compensation.

## **Article VI** **Annual Statements**

Each Director, Officer, member of a committee of the Board and paid staff member shall annually sign a statement which affirms that such person:

- a. Has received a copy of this Policy, as it may be amended from time to time;
- b. Has read and understands such Policy;
- c. Has agreed to comply with such Policy; and
- d. Understands that the Corporation is a not-for-profit corporation, and that in order to maintain its federal tax exemption, the Corporation must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## **Article VII** **Periodic Reviews**

**Section 1. Periodic Reviews.** The Board shall conduct periodic reviews to ensure that the Corporation operates in a manner consistent with its tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status. Such periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation and benefit arrangements entered into by the Corporation are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and other arrangements entered into by the Corporation conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax-exempt purposes and do not result in inurement (within the meaning of Section 501 (c)(3) of the Code), impermissible private benefit (within the meaning of Section 501(c)(3) of the Code), or in an excess benefit transaction (within the meaning of Section 4958 of the Code).

**Section 2. Use of Outside Advisors.** When conducting the periodic reviews as provided for in Article VII Section 1, the Corporation may, but need not, use outside advisors. If outside advisors are used, the use of any such outside advisors shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

*Adopted by the Spina Bifida Association Board of Directors April 26, 2009*