Government Ethics

Presentation to the Pharmacy & Therapeutics Committee

4/2/20
Introduction

- As a member of the P & T Committee you exercise the power of government.

- Ethics laws and rules and P & T policies and procedures safeguard the people’s trust in your actions.
Sources Governing Your Ethical Conduct

- Two primary sources govern your ethical conduct in carrying out government functions.
- The first source is the Oregon Government Ethics laws enforced by Oregon Government Ethics Commission.
- The second source is P & T policies and procedures.
The Oregon Government Ethics Law is codified in ORS chapter 244 and implemented in OAR chapter 199.

The ethics law applies to all “public officials.”

“Public officials” include persons serving the State of Oregon, including elected and appointed officials, employees and agents “irrespective of whether the person is compensated for the services.” ORS 244.020(15).
Basic Requirements of the Oregon Government Ethics Law

- Properly handle any conflicts of interest that arise;
- Avoid using your government office for financial benefit;
- Comply with the gift limitations;
- Avoid nepotism;
- After ceasing to be a public official, comply with prohibitions on using confidential information or benefiting from a contract you authorized.
CONFLICTS OF INTEREST

- The Ethics Law governs what a public official must do when met with a conflict of interest.

- For purposes of the Ethics Law, “conflicts of interest” means financial conflicts only.

- The financial conflict can be personal or it can arise from your relationships to relatives and businesses.

- There are two types of conflict of interest under ORS 244 “actual” and “potential.”
Actual Conflict of Interest

- Any action, decision or recommendation,
- By a person acting in a capacity as a public official,
- That would result in a private financial benefit or detriment to the public official, the public official’s relative or any business with which the public official or relative is associated.

“Would” meaning that the financial effect of the action would occur with certainty.
Potential Conflict of Interest

- Any action, decision or recommendation,
- By a person acting in a capacity as a public official,
- That *could* result in a private financial benefit or detriment to the public official, the public official’s relative or any business with which the public official or relative is associated.

“Could” meaning that the financial effect of the action would be *uncertain*. 
Exceptions

1. Having interest or membership in a business, industry, occupation or other class required by law as a prerequisite to holding the office or position.

2. If the action would affect to the same degree a class of persons.
   - Could include: all inhabitants of the state, or an industry, occupation or other identifiable group.

3. Membership in a 501(c) non-profit or on its board of directors.
What Do I Do When Met With A Conflict Of Interest?
Appointed Members of Committee

- Committee members must disclose any conflicts in writing to their appointing authority and ask the authority to dispose of the conflict.
Prohibited Use of Office

A public official may not use or attempt use position or office to obtain financial gain or avoid a financial detriment for:

- the public official, a relative or household member, or any business with which they are associated, IF:

- the financial gain or avoidance of detriment would not be available **but for** the public official’s holding the position or office.

* **Notwithstanding proper disclosure of conflicts of interest.**

* **There are exceptions (such as receipt of official compensation or reimbursement of expenses).**
Gift Limits

- During a calendar year, a public official or a relative or member of the household of the public official may NOT:
  - Solicit or Receive
  - Directly or Indirectly

- Any gift(s) with an aggregate value **exceeding $50** from any single source **reasonably known to have a legislative or administrative interest**.

- There are many exceptions.
What to ask If you are offered a gift

1. Is it a “gift” within the definition?
2. Do any exceptions apply?
3. Is it subject to the gift limit?
   - (Is the giver reasonably known to have a distinct economic interest in my decision-making?)
4. Is it within the $50 limit?
Enforcement

- The appointed nine-member Oregon Government Ethics Commission hears complaints of violations of the ethics law;
- If it finds a violation, may impose up to $5000 per violation ($10,000 for a willful violation);
- Can also impose twice the amount of any financial gain;
- Can instead issue letters of reprimand, explanation or education.
Resources

- Oregon Government Ethics Commission training
- Email: ogec.mail.Oregon.gov.
- Phone: (503) 378-5105
- Oregon Guide for Public Officials (2010) and 2015 Supplement:
P & T Committee Policies & Procedures

- In addition to the Oregon Government Ethics laws, the P & T Committee is working on updating its policies and procedures governing ethical conduct.

- P & T Committee policies and procedures are requirements *in addition to your responsibilities under Oregon Government Ethics laws* and are tailored to ethical concerns that arise specifically in the P & T Committee context.
P & T Committee Policies and Procedure Update Project

- Working on amending P & T Committee disclosure form language and bylaws to:
  - Clarify P & T Committee disclosure forms are separate from and do not satisfy any obligations under ORS 244;
  - Build consistency across OHA commission and committee requirements to the extent it makes sense;
  - Clarify the requirements and processes such as frequency and timing of filling out disclosure forms;
  - Ensure the transparency and integrity of P & T Committee actions and public confidence in the process.
Will Bring Updates to Future Meeting

- Will share proposed disclosure form and bylaw changes;
- Are considering seeking clarity from the Ethics Commission on grey areas and will share any advice received.