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## A Commentary in Response to: By What Authority? Conflicts of Interest in Professional Ethics

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## ***A Commentary in Response to:*** **By What Authority? Conflicts of Interest in Professional Ethics**

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Note: the author of this commentary was blinded to Dr. Charland's identity.

The author of "Conflicts of Interest in Professional Ethics" argues that work by health care ethics professionals is laced with conflicts of interest that ethicists by-and-large fail to "recognize and eradicate". Of particular concern to the author are "undeclared or partisan ethical biases and agendas" in ethics education, clinical ethics consultation, policy ethics consultation and ethics committee work. The author insists that "ethicists must be ethically accountable to those they serve... they must declare any ethical conflicts of interest they may have".

In very general terms, transparency is a good thing and the author's effort to model this by sharing personal information about his/her value commitments is interesting. Arguably, however, this exercise in disclosure doesn't "eradicate" conflicts of interest.

James Orłowski and Leon Wateska helpfully define a conflict of interest as "a discrepancy between the personal interests and the professional responsibilities of a person in a position of trust" (Orłowski and Wateska 1992, 273). And, with more specific reference to medicine, Dennis Thompson defines a conflict of interest as "a set of conditions in which professional judgment concerning a primary interest (such as a patient's welfare or the validity of research) tends to be unduly influenced by a secondary interest (such as financial gain)" (Thompson 1993, 573).

The point I want to insist upon in this brief commentary is that in many instances of conflict of interest, disclosure is an insufficient response and we must guard against any complacency that would have us believe otherwise. To be more precise, there are instances in which persons in positions of trust must show themselves to be trustworthy by removing themselves from actual, apparent, or potential conflicts of interests. That is, there are times when exit, as opposed to disclosure, is required. Carl Elliott makes this sort of point in his discussion of the growing credibility problem for North American bioethicists who accept funding from the pharmaceutical and biotechnology industries and who collaborate with entrepreneurs in publishing scholarly ethics articles. Elliott writes: "The authors of these articles have disclosed their industry ties, but readers are left to wonder: is the industry-funded bioethicist a bioethicist we can trust?" (Elliott 2005, 422) The answer provided to this rhetorical question is "industry funding will surely lead readers to question the impartiality of bioethics as a discipline..."

Disclosure policies raise a red flag and should be retained, but they do nothing to eliminate the real problem of industry funding, which is not secrecy but influence-peddling" (Elliott 2005, 422, 423).

Financial interests of the type alluded to by Elliott are not the only personal (i.e., secondary) interests that may conflict with professional (i.e., primary) interests and responsibilities. Other personal interests include interests in fame and recognition, career advancement and friendship. Indeed, when health care ethics professionals are called upon to provide ethical expertise and advice as members of governing boards, advisory boards, regulatory committees, peer review committees, professional working groups and research ethics committees, it is these sorts of personal interests, more so than financial interests, that may conflict with professional obligations. And when (for legitimate reasons) the ethicist is simultaneously a member of multiple committees with overlapping mandates, the conflicts of interest may be particularly acute (Downie 2006). A personal example will serve to illustrate the point.

In 2001, several senior members of the Canadian bioethics community (myself included) were members of two or more of the following committees: the Canadian Biotechnology Advisory Committee (CBAC), the Board of Directors of Genome Canada, the Science and Industry Advisory Committee (SIAC) of Genome Canada, and the Canadian Institutes of Health Research (CIHR) ad hoc Working Group on Stem Cell Research. At the same time, we were also Principal Investigators with the newly-established Stem Cell Network (SCN), a national multi-disciplinary research team funded under the Networks of Centres of Excellence program.

CBAC's mandate was three-fold: (i) to provide the federal government with policy advice on the ethical, legal, social, regulatory, economic, scientific, environmental and health aspects of biotechnology; (ii) to provide Canadians with accessible information on biotechnology issues; and (iii) to provide Canadians with opportunities to inform the policy advice that CBAC might offer the federal government. The SIAC of Genome Canada was mandated to provide the Board of Directors of Genome Canada with advice on genomics and proteomics research and on ethical, environmental, economic, legal and social issues relating to such research. In turn, the Board was responsible for developing and implementing a national research strategy for genomics and proteomics. The CIHR ad hoc Working Group on Stem Cell Research was established to determine the conditions under which individuals and institutions funded by Tri-Agencies (i.e., the CIHR; the Natural Sciences and Engineering Research Council (NSERC); and the Social Sciences

and Humanities Research Council (SSHRC)) could pursue stem cell research, consistent with the existing ethical framework for research involving humans (i.e., *The Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans*). The SCN's mandate was to research the therapeutic potential of stem cells.

From the outset, I was concerned about the overlapping roles of researcher (i.e., Principal Investigator with the SCN) and policy adviser (i.e., member of CIHR ad hoc Working Group) as these roles were in the same area of science, namely stem cell research. For my own part, I sought to manage any potential for perceived or actual conflict of interest, by ensuring that I received no research funds from the SCN while I was a member of the CIHR ad hoc Working Group. In this way I sought to ensure that, at the very least, the roles of researcher and policy adviser were temporally separated.<sup>1</sup>

In sharp contrast, initially I was not concerned about perceived or actual conflicts of interest with the overlapping membership of ethics and law experts on the various national committees. While taken together the committees were collectively responsible for advising the federal government, the Canadian public, the research funders and promoters, as well as the research regulators, there didn't appear to be a conflict of interest as the different committees were providing ethical expertise and advice on different areas of science. Concerns about overlapping committee membership did surface, however, when CBAC decided to add stem cell research to its work agenda, thereby introducing an acute conflict of interest for several of us who would ultimately in a position to: (i) advise Government on national policy regarding stem cell research; (ii) educate the Canadian public about "the promise" of stem cell research; (iii) develop the research guidelines for stem cell research; and eventually (iv) stand in line to receive research funds for work on ethical and legal issues relevant to stem cell research.

I raised the issue of conflict of interest with the Chair of CBAC and with colleagues who were in the same position as me because of overlapping membership on various national committees. In my view, though our membership on the various committees was public information, this sort of 'disclosure' was not an adequate response to the problem of perceived or actual conflict of interest. Several of us were now officially in a position not only to influence research guidelines, but also to influence national policy as well as 'public' opinion, all in a direction that would favour research we were involved with. Disclosure about committee membership would not diminish our influence.

To my surprise, my concerns about conflict of interest were uniformly dismissed. In the end, I saw no way to deal with the risk of partiality or bias, but to tender my resignation from CBAC. In my view, exit was the only ethically defensible option. Interestingly, my decision to resign met with resistance and none followed my lead.

In closing, I commend the author of "Conflicts of Interest in Professional Ethics" for shining a light on an important problem for contemporary bioethics in North America. My contribution to the discussion has been to angle that light toward the remaining penumbra in an effort to show that disclosure is not always a sufficient response to a perceived or actual conflict of interest. Sometimes there is an obligation to eliminate not merely "attenuate" a conflict of interest, in which case there is an obligation to recuse oneself.

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**Competing Interests:** none

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