

ACTION REQUEST

Subject: Option Agreement between the University of Michigan and OcuSciences, Inc.

Action Requested: Approval of Option Agreement

Preamble:

A statutory conflict of interest situation was identified by the Office of Technology Transfer while reviewing the technology transfer agreement which then triggered a review by the Medical School Conflict of Interest Board. A plan for management of the possible risks associated with the conflict of interest was then developed and approved by this Board and agreed to by the parties involved in this plan.

This proposed option agreement ("Agreement") falls under the State of Michigan Conflict of Interest Statute because Professors Victor Elnér and Howard Petty are both employees of the University of Michigan ("University") and partial owners and officers of OcuSciences, Inc. The law permits such an Agreement provided it is disclosed to the executive officers and approved in advance by a 2/3 vote of the Regents of the University of Michigan.

Background:

Drs. Howard Petty and Victor Elnér, both Professors in Ophthalmology and Visual Sciences, are the partial owners of a for-profit company called OcuSciences, Inc. ("OSI"). Drs. Elnér and Petty also are officers to OSI. OSI was formed to commercialize certain devices and methods for discovering and developing new drugs and desires to option the following technology from the University:

UM OTT File No. 2573, entitled: "Method of Evaluating the Metabolism of the Eye" (Petty and Elnér)

Parties to the Agreement:

The Regents of the University of Michigan and OcuSciences, Inc.

Option Terms Include:

Option terms include giving OSI an exclusive option for an option period where the Company will evaluate the technology and market potential. The University will retain ownership of the licensed technology and may continue to further develop it and use it internally. No use of University services or facilities, nor any assignment of University employees, is obligated or contemplated under the Agreement. Standard disclaimers of warranties and indemnification apply, and the Agreement may be amended by consent of the parties. University

procedures for approval of these changes will be followed and additional conflict of interest review will be done as appropriate.

Pecuniary Interest:

The pecuniary interests of Drs. Elnor and Petty arise from their ownership interest in OSI. Drs. Elnor and Petty have waived any personal participation in the sharing of revenue received by the University.

Net Effect:

The Office of Technology Transfer has negotiated and finalized the terms of an option agreement for patents related to UM OTT File No. 2573 for the fields of use of ophthalmic devices and therapeutics.

OSI will obtain evaluation rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the Medical School Conflict of Interest Board. In light of this disclosure and our finding that the Agreement was negotiated in conformance with standard University practices, I recommend that the Board of Regents approve the Option Agreement between the University and OcuSciences, Inc.

Respectfully Submitted,



Stephen R. Forrest
Vice President for Research

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