

**ADMINISTRATIVE RULE Nº 713, OF APRIL 17, 2012**

This makes public Resolution nº 1, of December 15, 2011, which establishes the Ethical Guidelines that are applicable to the members of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), presented in the attachment hereto.

THE MINISTER OF STATE FOR HEALTH, in the exercise of the authority conferred upon him by sub-paragraph IV of the sole paragraph of Art. 87 of the Constitution, and taking into consideration what is set forth in the "heading" of Art. 3º of the Decree of August 1, 2003, and bearing in mind the 31<sup>st</sup> Meeting of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), which took place on December 15, 2011, at which the Ethical Guidelines applicable to the members of CONICQ were approved, hereby resolves:

Art. 1º This Administrative Rule makes public Resolution nº 1 of December 15, 2011, of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), which establishes the Ethical Guidelines applicable to the members of CONICQ, presented in the attachment to this Administrative Rule.

Art. 2º This Administrative Rule enters into force on the date of its publication.

ALEXANDRE ROCHA SANTOS PADILHA

**ATTACHMENT**

**RESOLUTION Nº 1 OF DECEMBER 15, 2011. THE NATIONAL COMMISSION FOR THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION ON TOBACCO CONTROL AND ITS PROTOCOLS (CONICQ), in the exercise of the authority conferred upon it by sub-paragraph X of Art. 2º of the Decree of August 1, 2003, and**

Taking into consideration Resolution "WHA54.18," of the World Assembly on Health on transparency in the process of tobacco control, affirms that "the tobacco industry has operated for years with the express intention of subverting the role of governments and the World Health Organization (WHO) in the implementation of public health policies to combat the epidemic of tobacco use;"

Taking into consideration the preamble of the Framework Convention on Tobacco Control (FCTC), recognizes that the Parties "must maintain vigilance in the face of any attempt by the tobacco industry to undermine or disrupt tobacco control activities, as well as the need to stay informed on such actions of the tobacco industry as might negatively affect tobacco control activities;"

Taking into consideration that "upon establishing and implementing their public health policies concerning tobacco control, the Parties shall act to protect these policies from commercial interests or others associated with the tobacco industry, in accordance with national legislation," pursuant to Art. 5.3 of the FCTC;

Taking into consideration the guidelines for the application of Art. 5.3 of the FCTC, approved at the 3<sup>rd</sup> Conference of the Parties and drawn up on the basis of the best available scientific evidence and the experience of the Countries in dealing with the interference of the tobacco industry, whose objective is protection against interference, not only by the tobacco industry, but also, when appropriate, by the organizations and individuals that work to promote the interests of this industry;

Taking into consideration the fact that the measures recommended in the guidelines of Article 5.3 of the Convention are to be adopted in all sectors of government, and are applicable to the employees, representatives and staff of any agency or national, state, municipal or other public or governmental institution under the jurisdiction of the Party, as well as any person acting in its name;

Taking into consideration the fact that the commitment undertaken by Brazil, through a process of negotiation and subsequently with the ratification of the Framework Convention on Tobacco Control, through Decree n° 5.658, of January 2, 2006, must be guided by ethics and the defense of the interests of public health among all of the actors involved in the provisions of this Treaty;

Taking into consideration what is set forth in sub-paragraph XII of Art. 11 of Administrative Rule n° 1.083/GM/MS, of May 12, 2011, which approves the Internal Regimen of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ) and requires the adherence by its members to the Code of Professional Ethics of Civil Servants in the Federal Executive Branch and of Decree n° 4.334, of August 12, 2002, which deals with audiences granted to private individuals by public servants;

Taking into consideration the obligation of the members of CONICQ to declare any possible conflict of interest using a form endorsed by the WHO, pursuant to the terms of sub-paragraph XIII of Art. 11 of Administrative Rule n° 1.083/GM/MS, of 2011;

Taking into consideration the need to adopt measures to ensure that the National Policy for Tobacco Control is implemented in an atmosphere free of pressure, and also to guarantee the integrity and impartiality of the work performed in the context of CONICQ, so that situations are avoided in which interests at odds with the objectives of tobacco control could affect the activities performed towards that end;

Taking into consideration the fact that ongoing contact of public officials with representatives of private interests constitutes a characteristic of democratic society, involving legitimate activities that seek to support the decision making of public authorities by presenting arguments and technical or policy data, as long as it is carried out within the strict limits of legal provisions; and

Taking into consideration the approval by CONICQ at its 31<sup>st</sup> meeting that took place on December 15, 2011, of the Ethical Guidelines applicable to its members, hereby resolves:

Art. 1° This Resolution establishes the Ethical Guidelines applicable to the members of the National Commission for the Implementation of the Framework Convention on Tobacco Control and Tobacco Products (CONICQ).

CHAPTER I  
PRINCIPLES AND THEIR APPLICATION

Art. 2° The relationships established among members of CONICQ and the tobacco industry are to be governed by the following principles:

I - Principle of Transparency, whereby the relationships established among the members of CONICQ and the tobacco industry or those acting to promote its interests must be transparent and responsible;

II - Principle of the Primacy of the Interests of Public Health Policy, whereby the interests of the tobacco industry are irreconcilable with those of the policy of public health, which in all circumstances has priority;

III - Principle of the Sharing of Information, whereby information concerning the tobacco industry to which they have access in the exercise of their duties and the interference by the latter in public policies for tobacco control must be widely shared among the representatives of CONICQ; and

IV - Principle of the Publicity of Interactive Practices, whereby interactive practices between CONICQ and its members and the tobacco industry must be characterized, preferably, by publicity.

Section I  
Conflicts of Interest

Art. 3° Representatives of CONICQ must avoid conflicts of interest and, should they arise, must declare their existence, pursuant to the form indicated in sub-paragraph XIII of Art. 11 of Administrative Rule n° 1.083/GM/MS, May 12, 2011.

Sole paragraph. The following situations, among others, may give rise to conflicts of interest:

- I – property interests;
- II – family relationships;
- III - friendship; and
- IV – professional relationships.

Art. 4° With the aim of preventing situations that have the potential to give rise to conflicts of interest, CONICQ members must do the following:

I – Cease to act as a member of CONICQ for as long as the situation likely to give rise to conflicts of interest persists; and

II – In the event of a specific and transitory conflict of interest, communicate its occurrence to one's immediate superior and to the Executive-Secretary of CONICQ, abstaining from taking part in the debate on the matter and from voting in any possible group decisions.

Art. 5° In relationships with government agencies, institutions and public servants, members of CONICQ must explain the existence of any and all private interests or

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circumstances that may give rise to a conflict of interest, whether it is apparent, potential or actual.

Sole paragraph. For the purposes of what is stated in the "heading," members of CONICQ should declare themselves disqualified from taking part in any decision making process.

## Section II

### Interactive Practices with the Tobacco Industry

Art. 6° CONICQ and its members must ensure the transparency of any relationship with the tobacco industry, and must see to it that the information required or transmitted by the tobacco industry is transparent and precise.

Sole paragraph. No priority treatment will be given, nor will any partnerships be offered to the tobacco industry.

Art. 7° In situations of relationships with the tobacco industry, members of CONICQ must take into consideration the following guidelines:

I – Requests for an audience must be addressed to the public servant, in writing, via fax or e-mail, containing the following:

- a) the identification of the applicant, including the address, email and phone and fax numbers;
- b) date and time on which he wishes to be heard, and as appropriate, the reasons for urgency;
- c) the subject to be addressed;
- d) the interest of the applicant with regard to the matter to be addressed;
- e) identification of companions, if any;

II – The audience shall always have an official character, and is preferably to be conducted at the main office of the agency;

III – Public officials responsible for receiving the tobacco industry for audiences should be accompanied by at least one other public servant; and

IV – A specific record is to be made of the audience, with a list of the persons present and the matters addressed.

§ 1° When an audience occurs unexpectedly, it must be retroactively formalized, with a memorandum “for the file,” the identification of the participants, the matters addressed and the decisions made.

§ 2° The minutes for the audience are to be subsequently sent to the Executive Secretary of CONICQ, to be kept on file.

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§ 3° The guidelines established in this article seek to ensure transparency in this process and guarantee the clarity of positions, pursuant to what is set forth in Art. 3° of the Code of Conduct and in Decree n° 4.334, of August 12, 2002.

### Section III

#### Gifts and Free Samples

Art. 8° Gifts, free samples and services, in cash or in other forms, as well as financing of studies offered by the tobacco industry must be rejected by members of CONICQ.

### Section IV

#### Events Sponsored by the Tobacco Industry

Art. 9° Members of CONICQ must not endorse, support or enter into partnerships in tobacco industry activities, even those described as socially responsible.

Art. 10. The participation of members of CONICQ in seminars or similar events promoted or sponsored by the industry shall be possible when it results from an institutional interest, with it being up to the public institution itself to cover the respective costs.

§ 1° It shall be the responsibility of the member to inform the Executive Secretary of CONICQ about the participation indicated in the "heading" and to submit a report, which is to be distributed to the other members.

§ 2° If he should consider it necessary, the member may request guidance ahead of time from the Executive Secretary of CONICQ with regard to the appropriateness of his participation in the event.

§ 3° The participation indicated in the "heading" may be undertaken in the name of the agency or institution to which the member of CONICQ is connected, or in the name of CONICQ itself, depending on the indication.

Art. 11. The members of CONICQ must avoid participation as private individuals in similar seminars or events promoted or sponsored by the tobacco industry.

Sole paragraph. In the event of participation in events such as those indicated in the "heading," payment for it should be made by the public official himself, as long as there is no conflict with the exercise of his public duties and a company or institution is not involved that is subject to the jurisdiction of the authority in question.

Art. 12. Participation by a member of CONICQ in a seminar or similar event promoted by the tobacco industry to give a lecture of institutional interest cannot be remunerated by the sponsor of the event.

Sole paragraph. Participation in a seminar or similar event promoted by the tobacco industry to give a lecture of private interest is not recommended.

### Section V

#### Employment Proposals

Art. 13. Members of CONICQ may not provide, formally or informally, consulting services for the tobacco industry or its affiliates, in the face of potential characterization as a conflict of interest.

Art. 14. It is recommended that public officials refrain from employment, including consulting activities, that are incompatible with the duties they performed at CONICQ, for a period of 4 (four) months, counting from the date of their ceasing to function as a member of CONICQ.

## CHAPTER II FINAL PROVISIONS

Art. 15. The Ethical Guidelines presented in this Resolution must be understood as a whole and interpreted in a complementary and interdependent fashion, with each guideline to be considered in the context of the others, to the extent that it is appropriate and pertinent, in accordance with the circumstances of each specific case.

Art. 16. Any uncertainties regarding the application of the provisions of this Resolution are to be settled by the Executive Secretary of CONICQ.

Sole paragraph. Should he consider it necessary, the Executive Secretary of CONICQ may forward inquiries to the Legal Working Group of CONICQ (GT-Jurídico CONICQ).

ALEXANDRE ROCHA SANTOS PADILHA  
President of CONICQ