

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 29

June 7, 1993

RE: Employee wishes to leave state government and seek other employment opportunities

This letter is in response to your May 27, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 7, 1993 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are currently employed by the Cabinet for Human Resources in the area of mental health and mental retardation. Your job responsibilities include coordinating substance abuse services for women through contracts with Community Mental Health and Mental Retardation Boards. You monitor several of these Boards throughout the state. Prior to your state employment you worked in the same profession as an alcoholism counselor.

You have plans to relocate to a rural area of the state where job opportunities in your profession are limited. The only job possibilities available are with the Kentucky River Community Care, Inc. (one of the Community Mental Health and Mental Retardation Boards) and the Appalachian Regional Hospital-Psychiatric Center -- both of which receive the majority of their funding from the Human Resources Cabinet. You do not have specific monitoring duties over the Kentucky River Community Care, Inc., but do have some statewide responsibilities where you are involved in matters directly related to this organization. You have no direct involvement in your state employment with the Appalachian Regional Hospital-Psychiatric Center.

You wish to seek employment when you relocate. Your request asks for a clarification on whether KRS 11A.040(6) prohibits you, for six months following termination of your state job, from (1) seeking employment at one of these organizations or (2) working on matters directly involved with state government.

KRS 11A.040(6) states (in pertinent part):

No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government. . .

The Commission finds that for a period of six (6) months following your state employment, you are prohibited from accepting employment with a Community Mental Health and Mental Retardation Board through which you coordinate services as a state employee. This Board does business with the state in matters in which you are directly involved.

You are not prohibited from returning to the occupation or profession in which you were involved prior to your state employment. However, for a period of six months, you must personally refrain from working on any matter with which you are directly involved in your current employment. The Commission advises you not to seek employment with the Kentucky River Community Care, Inc. for a period of six (6) months following your termination from state government unless your work there would be on matters in which you were not directly involved while in state government.

Provisions of KRS 11A.040(6) do not prohibit you from seeking employment with the Appalachian Regional Hospital-Psychiatric Center. Since you are not directly involved in any matters pertaining to this hospital, the Commission believes you may seek employment there immediately following your termination from state employment. You also are not prohibited from working on matters directly involved with state government there, as long as these are matters you are not directly involved with currently.