

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-11

April 13, 1999

RE: May agricultural veterinarian for the Department of Agriculture operate small animal emergency clinic after normal working hours?

DECISION: Yes.

This opinion is in response to your March 15, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 13, 1999, meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. The Department of Agriculture is interested in hiring an individual as a full-time agricultural veterinarian. The individual and his spouse are both practicing veterinarians and are considering opening a small animal emergency clinic to provide services after normal business hours. This clinic would be structured as a corporation with shares to be sold to local veterinarians who plan to stop offering emergency services and send their clients to the clinic. The Department of Agriculture does not regulate or do business with veterinarians.

KRS 11A.020(1) provides:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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The Commission believes that an individual hired by the Department of Agriculture as an agricultural veterinarian is not prohibited from opening a small animal veterinary clinic with his spouse. The Commission took into consideration that neither the position of agricultural veterinarian, nor the Department of Agriculture, is involved in the regulation of veterinarians. However, the Commission advises that, in order to avoid any conflicts of interest, the agricultural veterinarian abstain from involvement, as part of his official duty, in matters concerning any clients that he may have in his private business. He should document such abstention in writing as required by KRS 11A.020(3) stated below:

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

Additionally, the Commission cautions the Department of Agriculture to advise the agricultural veterinarian to make a clear distinction between his private work and his public work. He should not use state time or property for his private business.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Don A. Wimberly

April 10, 2008

Harold Nally, Director
Personnel & Staff Development
Department of Agriculture
7th Floor, 500 Mero Street
Frankfort, KY 40601

Reference: 041399.7

Dear Mr. Nally:

At its April 13, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated March 15, 1999, in which you ask whether an agricultural veterinarian for the Department of Agriculture may operate a small animal emergency clinic after normal working hours.

The enclosed Advisory Opinion 99-11 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-11