

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-45
August 18, 2000

RE: May employee accept outside employment with the Board of Pharmacy?

DECISION: Yes, provided he obtains approval for dual employment, if required.

This opinion is in response to your August 1, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 18, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. A pharmacist supervisor employed by the Department of Corrections (the "Department") at Luther Lockett Correctional Complex has requested approval from the appointing authority of the Department for outside employment with the Kentucky Board of Pharmacy. In his outside employment, he would serve as a pharmacist consultant and would be responsible for coordinating the processes of the impaired pharmacists committee as established by KRS 315.126. His job duties would include maintaining the treatment records of pharmacists in the impaired pharmacist program, ensuring that there is compliance with the terms of the pharmacists' agreed order, or order of reinstatement, scheduling random urine and/or blood samples, and reporting to the committee. The pharmacist supervisor would not be involved in any decisions regarding the licensure of the Department's pharmacy. You ask, provided the employee does not supervise a pharmacist whom he also monitors under the program, whether he may accept such employment with the Board of Pharmacy.

The Commission believes that because the pharmacist supervisor has no involvement with matters involving the Board of Pharmacy as a part of his official duty and is not involved in the Board's licensure of the Department, no apparent conflict of interest will exist if he accepts outside employment with the Board of Pharmacy. Thus, he may accept such outside employment provided, as you have stated, he does not supervise any pharmacist he monitors under the impaired pharmacist program.

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Additionally, it appears that such employment may constitute “dual employment” for the employee. The provisions of the Executive Branch Code of Ethics do not prohibit an employee from dual employment within the executive branch. However, Department of Personnel administrative regulation 101 KAR 2:095, Section 4 does require an additional approval for dual employment as provided below:

Section 4. Dual Employment

(1) An employee holding a full-time position with the Commonwealth shall not hold another state position except upon recommendation of the appointing authority and the written approval of the secretary.

(2) A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the secretary.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.