

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 01-36

September 28, 2001

RE: May Health Program Administrator provide supervision for certified social workers?

DECISION: Yes, within limitations.

This opinion is in response to your August 27, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 28, 2001, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Department for Mental Health and Mental Retardation Services, Division of Mental Health, Child and Youth Services Branch as a Health Program Administrator. Your position involves serving as a consultant liaison with three community mental health regions. A major part of your responsibilities includes site reviews of mental health facilities in those regions.

In addition to your state position, you are a Licensed Clinical Social Worker ("LCSW") and would like to provide supervision for newly certified social workers who are attempting to become LCSWs. State law requires that a certified social worker be supervised for two years by an LCSW who is not the employer of the social worker. The certified social worker provides compensation to you for this service. Occasionally, the certified social worker may receive reimbursement for this expense from his employer. You ask if you may continue to provide LCSW supervision, and if so, does it make a difference if the employer of the social worker is a facility at which you conduct site reviews. Additionally, you ask if you may provide service to the Board of Social Workers as a reviewer of complaints, but without compensation.

KRS 11A.020(1)(a) provides:

- (1) No public servant, by himself or through others, shall knowingly:

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(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;

It does not appear to the Commission that your supervision of certified social workers will present a conflict of interest with your official position as a Health Program Administrator. The Division of Mental Health does not regulate certified social workers from whom you will be receiving compensation. However, if the certified social worker you are supervising is employed by a facility that you are currently reviewing or have recently reviewed as part of your official duty, certainly an appearance of a conflict may exist. Thus, the Commission recommends, if possible, that you abstain in your official position from involvement in site reviews of facilities that employ certified social workers that you are supervising privately.

Such abstention should be disclosed in writing pursuant to KRS 11A.020(3) cited 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, you should not use any state time or resources in the supervision of the certified social workers. The Commission also includes Advisory Opinion 99-42 that may provide some guidance in this matter.

Regarding your second question, Advisory Opinions 94-16 and 94-60 allow a state employee to serve on a state board or commission, provided the employee is not employed by the board or commission or the agency to which the board or commission is attached. Thus, the Commission believes that you may provide service to the Board of Social Workers as a reviewer of complaints.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia Stone, J.D.

Enclosures: Advisory Opinion 99-42
Advisory Opinion 94-16
Advisory Opinion 94-60