

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 02-1

January 25, 2002

RE: May medical director have outside employment?

DECISION: Yes, within limitations.

This opinion is in response to your December 4, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the January 25, 2002 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are the assistant administrator for the new Eastern Kentucky Veterans Center ("Veterans Center") located in Hazard. You are in the process of selecting and hiring a medical director for the facility. You ask for the Commission's opinion on whether a physician that you hire as the medical director may have outside employment also. You ask what conflicts may exist for a physician if he were to work for a nursing home or another hospital in addition to his state employment.

Regarding outside employment, the Executive Branch Code of Ethics ("Code") provides the following guidance in KRS 11A.040(10) stated below:

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

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Regarding conflicts of interest, the Code provides guidance in KRS 11A.020(1) (a) stated below:

- (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;

The Commission believes that a medical director is not prohibited from having outside employment with nursing homes or hospitals in addition to his state employment, provided such employment does not pose a conflict of interest with his employment for the Veteran's Center. Please find enclosed several advisory opinions of examples of potential conflicts of interest and relevant guidance in this area. In general terms, the medical director should not hold outside employment with any person or entity with which he is involved as part of his official duty for the Veteran's Center.

Additionally, if the Veteran's Center has any involvement (business or regulatory) with an outside entity for which a medical director wishes to work, the employment should be approved by the appointing authority of the agency pursuant to KRS 11A.040 (10).

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia C. Stone, Esq.

Enclosures: Advisory Opinion 97-16
Advisory Opinion 99-42
Advisory Opinion 99-44
Advisory Opinion 00-65