

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94-10

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February 3, 1994

RE:            May employee accept position as therapist?

DECISION:    Yes, but must refrain for six months from working on matters in which directly involved in state employment.

This opinion is in response to your January 13, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 3, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as a psychiatric social worker at Eastern State Hospital within the Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources. Upon resignation from that position, you wish to accept employment as an out-patient therapist at Kentucky River Community Comprehensive Care Center in Jackson, Kentucky. Kentucky River Community Care holds contracts with the Cabinet for Human Resources. Your new position will involve crisis intervention screening, out-patient counseling, and referrals for in-patient care to a psychiatric hospital in Hazard, Kentucky, which also contracts with the Cabinet for Human Resources to provide services.

Prior to your current state position, you worked for Kentucky River Community Care. You ask if the six-month employment prohibition on former state employees applies to you.

KRS 11A.040(6) places the following restrictions on former state employees:

(6) 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 a period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

Based on the information provided, the Commission believes you may accept employment with the Kentucky River Community Care since you are returning to the same business in which you were involved prior to your state employment. However, you must refrain, for a period of six months, from working on any matter in which you were directly involved during your state employment at Eastern State Hospital. For example, for a period of six months, you should not screen or counsel, in your new employment, any patients with whom you have had any contact with during your state employment.