

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-2

February 6, 1996

RE: May employee accept a part-time teaching position with Bellarmine College which involves conducting on-site tours and clinical rotations at Central State Hospital?

DECISION: Yes, within limitations.

This opinion is in response to your November 22, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 6, 1996 meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. A nurse consultant inspector ("inspector") employed by the Office of Inspector General ("OIG") within the Department for Health Services, Cabinet for Human Resources wishes to accept a part-time teaching position with Bellarmine College's nursing program. In this position, she will conduct visits to Central State Hospital with nursing students for on-site tours and clinical rotations. Although the OIG does not have a regulatory relationship with Bellarmine College, the OIG does regulate Central State Hospital. You ask for an opinion from the Commission concerning the propriety of the inspector's employment with Bellarmine College.

The inspector's duties with respect to her position as a nurse consultant inspector involve assessing the quality of patient care at health care facilities and determining facility compliance with federal and state regulations, investigating complaint allegations against various type facilities relating to the quality of care, providing technical assistance to health care providers, and reviewing current and new regulations pertaining to health care programs. Prior to her employment with the OIG, the inspector was employed by Central State Hospital. Federal regulations prohibit the inspector, as part of her official duty, from performing assessments or investigations at Central State Hospital for two years following her resignation from Central State Hospital. In addition, the inspector's supervisor, the regional program manager, has required the inspector to abstain from any involvement in assessing or investigating Central State Hospital as long as her outside employment involves clinical rotations at the hospital.

The inspector, as part of her outside employment, will have no responsibility for securing Central State Hospital as the location for clinical rotations. Thus, she will not be interacting in her outside employment with management of Central Sate Hospital.

KRS 11A.020(1) states:

- (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 manner 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.

The Commission takes note that the inspector is employed by Bellarmine College which is not regulated by, nor does business with, the Cabinet for Health Services (formerly the Cabinet for Human Resources). Although the Cabinet does regulate Central State Hospital, where the inspector will supervise clinical rotations of Bellarmine students as part of her outside job, the inspector receives no remuneration from Central State Hospital.

Therefore, the Commission believes that as long as the inspector, in her official duty, abstains from any decisions concerning Central State Hospital, she may hold outside employment with Bellarmine College which involves the supervision of nursing students during clinical rotations at Central State Hospital. In addition, in order to avoid even the appearance of a conflict of interest, the inspector should not interact with the management of Central State Hospital as part of her outside employment.

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BY: Lynda Thomas, Vice Chair