

ADVISORY OPINION 97-16

May 13, 1997

RE: May state psychologist accept part-time position as psychological consultant?

DECISION: Yes.

This opinion is in response to your April 28, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 13, 1997, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Department of Corrections, Division of Mental Health, Sex Offender Treatment Program as a program administrator, licensed psychologist. In your position, you are responsible for program administration, staff supervision and some direct services to clients.

In addition, you have been asked to apply for a part-time position as a psychological consultant with Correctional Medical Services of St. Louis ("CMS"). This position will require you to supervise Masters' level psychological associates at the Jefferson County Jail. Such associates must be supervised by a licensed psychologist in order to perform psychological services such as testing and therapy. In this position, you will have no administrative function or client contact. You ask for an advisory opinion from the Commission regarding your acceptance of this position.

The Commission believes that as long as you are not involved in your official position with the Department of Corrections in any matters concerning CMS, or a business which might be in competition with CMS, you may accept employment with CMS as a psychological consultant. However, such work should not involve clients to whom you provide direct services as part of your official duty.

Furthermore, if CMS holds a contract with, or is regulated by, the Department of Corrections, then you must obtain approval from the Commission for such outside employment, pursuant to KRS 11A.040(9) which provides :

(9) Without the approval of the commission, no public servant shall 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. The commission shall promulgate administrative regulations to establish a procedure for the approval of outside employment of a public servant, including a requirement that the public servant and his appointing authority state in writing that the public servant is not in a position to influence any agency decision relating to the outside employer.