

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
April 12, 2018**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:00 a.m. Commission members present included James Clevenger, Chairperson; Corinne Finnerty; Sue Anne Gilroy; Priscilla Keith; and Katherine Noel. Staff present included Jennifer Cooper, Ethics Director; Lori Torres, Inspector General; Matthew Savage, Staff Attorney; Tiffany Mulligan, Chief Legal Counsel; Kelly Haltom, Staff Attorney; Darrell Boehmer, Director of Field Investigations; and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Stephanie Mullaney, Deputy Attorney General, Attorney General’s Office; Sarah Kamhi, Assistant General Counsel, Department of Revenue; Rachel Russell, Ethics Officer/Deputy General Counsel, Department of Child Services; Tammera Glickman, Assistant General Counsel, Department of Administration; Deana Smith, Attorney, State Department of Health; Beth Green, General Counsel, Department of Workforce Development; Latosha Higgins, Managing Attorney/Ethics Officer, Family & Social Services Administration; Mark Tidd, Ethics Officer/Special Advisor, Department of Transportation; Sylvia Watson, General Counsel, Department of Child Services; Jeffrey Chapman, II, Director of Provider Services, Family & Social Services Administration; Jared Prentice, Compliance Director, Department of Revenue; Kendra Leatherman, Legislative Director, Auditor of State; Whitney Fritz, Staff Attorney, Department of Child Services; and Michelle Stanley, Legal Specialist, State Board of Accounts.

II. Adoption of Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the Agenda and Commissioner Finnerty seconded the motion which passed (5-0). Commissioner Noel moved to approve the Minutes of the March 8, 2018 Commission Meeting and Commissioner Gilroy seconded the motion which passed (5-0).

III. Inspector General’s Report

Inspector General Lori Torres informed the Commission that the Inspector General’s Report was now available as part of the Commission’s regular monthly meeting packet, which was posted on the Office’s website prior to each month’s meeting, thus making the information available to the public as well.

Inspector Torres then discussed informal advisory opinions, stating that all five attorneys in her office reviewed every single informal advisory opinion drafted, but that only four actually drafted same. Inspector Torres then explained that the reason behind the extensive review process was to ensure the consistency of the information being provided to requestors. Inspector Torres also explained how each request for an informal advisory opinion was internally catalogued, but still

treated confidentially, and therefore, not shared with anyone. Inspector Torres further stated that there had been 75 informal advisory opinions issued in the first quarter of 2018, as compared to the 371 total informal advisory opinions issued in all of 2017. Inspector Torres stated that she expected this decline for 2018, as the biennial ethics training would not be taking place during 2018, which was what she believed prompted the spike in informal advisory opinions requested during 2017. The Inspector General further stated that the office used the number of informal advisory opinions requested as an internal key performance indicator as well as an overall measurement of the culture within state government, in terms of individuals having a desire to comply with the rules as opposed to people just acting and then dealing with the associated consequences of breaking ethics rules at a later time, if or when they were caught.

Inspector Torres also discussed the special agents' investigations, stating that requests to investigate arrived via mail and email and from walk-ins and telephone calls as well as through submissions from the website, which were then given to the attorneys to screen within one to three business days. The Inspector further stated that the office received 100 requests to investigate during the first quarter for 2018, as opposed to the 60 it received during the first quarter of 2017. Inspector Torres stated that of the 100 requests to investigate received during the first quarter, only 19 were actually opened, as many of the requests fell outside of the office's jurisdiction. Inspector Torres compared that with the nine cases opened during this same time period in 2017. The Inspector further stated that the office was short one special agent and that it had been for the entire first quarter of 2018. She stated that the office had recently filled this position, but that the increase in pay at Indiana State Police made finding a quality candidate difficult, as the office usually hires former state troopers once they reach retirement level. Inspector Torres then stated that 11 investigations were closed during the first quarter of 2018 and that this time last year 19 investigations were closed, which she believed was at least partly due to the former Inspector General, Cynthia Carrasco, wrapping up outstanding matters before moving on to the Governor's Office. In response to Commissioner Gilroy's inquiry regarding the average length of time between when a case was opened and when it was closed, Inspector Torres explained that the time length could vary, but that per the special agents' job performance expectations, 80% of open cases were required to be closed within either 120 or 180 days, and that the agents met this expectation, with the exception of a few random cases that took multiple years to investigate.

Inspector Torres then went on to discuss the office's website enhancements, stating that previously individuals could only obtain alerts for investigation reports and items related to the State Ethics Commission, but that the office had added subscription alerts for additional items, such as when agendas and meeting minutes were posted. She further stated that the subscription alerts may not be working at this particular moment, but that IOT was working on resolving associated issues. Inspector Torres also stated that the formal advisory opinions page was updated after each formal advisory opinion was approved by the Commission. She also stated that there were subscription alerts for news releases, ethics officer resources, and rulemaking. The Inspector also said that Minutes, agendas, and public packets have all been posted online for about the last year or so.

Referring back to her earlier mention of rulemaking, the Inspector stated that they were in the process of readopting Indiana Administrative Code Title 42 in its entirety with no changes because it is scheduled to sunset at the end of 2018, which is the end of the seven year period. Next year, she further stated, that a re-adoption or a modification of Title 40 would be discussed.

The Inspector then mentioned the office's Twitter account, @InInspectorGen, which is ran by State Ethics Director Jen Cooper, who tweets anywhere from daily to every three days regarding the Commission meetings, formal advisory opinions, internal happenings, and the announcement of new Commission members. Commissioner Gilroy admitted that she was a follower of the office's Twitter account.

The second to last item the Inspector General mentioned was the ethics officer audit her office recently conducted, which referred to the examination into whether every agency had a current ethics officer designation on file, and her plan to get those current.

Lastly, the Inspector discussed the status of her office's required 2017 Annual Report to be filed with the Legislative Council, which had an original target completion date of February, 2018. Because the Annual Report had not yet been completed, Inspector Torres stated that her office would email the Report to the Commission as well as post it on the office's website next week, once it had been submitted to the Legislative Council.

IV. Request for Formal Advisory Opinion

**2018-FAO-0010 Jeffrey Chapman, II, Director of Provider Services
Latosha Higgins, Managing Attorney/Ethics Officer
Family & Social Services Administration**

Jeffrey Chapman is a state employee with the Family and Social Services Administration (FSSA) as the Director of Provider Services within the Office of Medicaid Policy and Planning (OMPP). The OMPP oversees the contracts for four Managed Care Entities (the MCEs): Managed Health Services (MHS), MD Wise, Anthem, and CareSource. Each of these MCEs have their own contracts with the State to provide managed care services. The MCEs are responsible for administering Medicaid benefits to members enrolled in Hoosier Healthwise, Hoosier Care Connect, and the Healthy Indiana Plan (HIP).

Mr. Chapman first joined the OMPP as the HIP Provider Relations Manager in February 2016. The Provider Relations Manager position is part of the Provider Services unit in OMPP. In March of 2017, Mr. Chapman was promoted as the Provider Services Director, reporting to the Deputy Medicaid Director.

OMPP Provider Services is responsible for enrolling new Medicaid providers, publishing provider communication and resources on IndianaMedicaid.com, and offering provider education in the form of Medicaid workshops, webinars, provider association meetings, and an

annual seminar. Each of the workshops offers a presentation by the State's fiscal agent, DXC Technology, in addition to the four MCEs.

As the Provider Services Director, Mr. Chapman is responsible for the oversight of the DXC Technology contract as it pertains to the member and provider call center, written correspondence, provider enrollment, and provider relations. Mr. Chapman also acts as a resource for Medicaid providers needing assistance resolving issues with DXC Technology and the MCEs. This requires collaboration between himself and the MCEs to reach a resolution. The State has no jurisdiction over claims submitted by a provider to an MCE but does have a team dedicated to MCE contract compliance. While Mr. Chapman communicates to the MCEs to address provider inquiries, he has no contract oversight, and he was not part of the contract RFP process. During the fall of 2016, a HIP and Hoosier Healthwise contract was awarded to four MCEs, including CareSource. Mr. Chapman was not part of the review or award decision, but he did collaborate with a team of about 30 individuals for readiness reviews to ensure the MCEs were capable of fulfilling the contractual responsibilities.

Mr. Chapman provides that he has not been a part of the contracts, RFI, or RFP for any of the MCEs. He further provides that he has not been in a position that would allow for a discretionary decision affecting the outcome of the negotiation or nature of the administration of any of the MCE's contracts. Additionally, the OMPP does not make any regulatory or licensing decisions with the State.

As the Director of Health Partnerships for CareSource, Mr. Chapman would be required to work with providers who have contracts with CareSource to assist with issues presented. Mr. Chapman would also have more operational responsibilities including working in conjunction with the VP of Market Operations to develop the regional plan to meet population specific needs, align to market requirements, and meet corporate goals. In addition Mr. Chapman would serve as a subject matter expert (SME), leading a regional team in areas of Value Based Reimbursement (VBR), Integration, Health Partner Relations, and operations to support regional and state performance goals.

Mr. Chapman requested an informal advisory opinion from the Indiana Office of Inspector General on March 7, 2018, prior to submitting an application and discussing potential employment with CareSource. The informal advisory opinion addressed the general application of the conflict of interests and post-employment rules to a position with one of the MCEs (not identified at that point). Mr. Chapman provides that a screen was put in place to avoid any potential conflict of interests, and he has not been involved with or made any decisions that could impact CareSource. He submitted his application to CareSource on March 19, 2018.

Mr. Chapman requested a formal advisory opinion to determine if it would be permissible to accept a position with CareSource immediately after leaving state employment.

The advisory opinion stated the following analysis:

A. Confidential Information

IC 4-2-6-6 prohibits Mr. Chapman from accepting any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature.

Mr. Chapman confirmed that he would not be required to utilize any confidential information in his prospective employment with CareSource. So long as any compensation Mr. Chapman receives does not result from confidential information, his potential employment with CareSource would not violate IC 4-2-6-6.

B. Conflict of Interests

IC 4-2-6-9(a)(1) prohibits Mr. Chapman from participating in any decision or vote, or matter related to that decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(4) prohibits him from participating in any decision or vote, or matter related to that decision or vote, in which a person or organization with whom he is negotiating or has an arrangement concerning prospective employment has a financial interest in the outcome of the matter. The definition of financial interest in IC 4-2-6-1(a)(11) includes, “an interest arising from employment or prospective employment for which negotiations have begun.”

In this case, employment negotiations have already begun. Accordingly, Mr. Chapman is prohibited from participating in any decision or vote, or matter related to a decision or vote, in which CareSource would have a financial interest in the outcome of the matter.

IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify their Ethics Officer and Appointing Authority and seek an advisory opinion from the Commission or file a written disclosure statement. Ms. Higgins provided that Mr. Chapman informed her, his supervisor, and the FSSA appointing authority of his employment negotiations with CareSource and that he has been screened from all CareSource matters.

The Commission finds that Mr. Chapman and FSSA have taken the necessary steps to ensure Mr. Chapman does not participate in any decisions or votes, or matters relating to such decisions or votes, in which CareSource has a financial interest. The screening mechanism implemented by FSSA must remain in effect for the remainder of his state employment to ensure that Mr. Chapman would not violate this rule.

C. Post-Employment

IC 4-2-6-11 consists of two separate limitations: a “cooling off” period and a “particular matter” restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents Mr. Chapman from accepting employment from an employer for 365 days from the date that he leaves state employment under various circumstances.

First, Mr. Chapman is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration (IDOA).

Mr. Chapman provided that he does not anticipate engaging in any lobbying activities in his prospective employment with CareSource. To the extent that Mr. Chapman does not engage in executive branch lobbying for one year after leaving state employment, his intended employment with CareSource would not violate this provision of the post-employment rule.

Second, Mr. Chapman is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract.

Mr. Chapman provides that he was not a part of the contracts, RFIs, or RFPs for any of the MCEs, including CareSource's contract, but he did assist in some parts of the readiness reviews to ensure the MCEs were able to fulfill their contractual obligations. He was part of a team consisting of 30 individuals who conducted these reviews, which were subject to further review and approval by his supervisors. Mr. Chapman notes that he has no oversight over CareSource's contract in his current position. He advised that his interactions with the MCEs, including CareSource, include facilitating mediations and communications with providers regarding problems with claim reimbursements and ensuring the MCEs present at educational workshops. Mr. Chapman also represented that FSSA has no authority or jurisdiction to make any determinations between providers and MCEs.

The Commission finds that Mr. Chapman did not negotiate or administer a contract with CareSource nor was he in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of CareSource's contract. Accordingly, the Commission further finds that the employee is not prohibited under this provision from accepting employment with CareSource immediately upon leaving state employment.

Third, Mr. Chapman is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary.

The Commission finds that this provision does not apply as Mr. Chapman provided that he has not made any regulatory or licensing decisions during his state employment. Consequently, he is not prohibited under this provision from accepting employment with CareSource immediately upon leaving state employment.

Fourth, Mr. Chapman is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him in his official capacity as a state employee. The information provided does not suggest that CareSource has extended an offer of employment to Mr. Chapman in an attempt to influence him in his capacity as a state employee. Accordingly, the Commission finds that this restriction would not apply to his intended employment opportunity with CareSource.

Finally, Mr. Chapman is subject to the post-employment rule's "particular matter" prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11) an economic development project, or 12) a public works project. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

Mr. Chapman was one of 30 people who participated in the MCEs' contract readiness reviews to ensure the MCEs, including CareSource, were capable of fulfilling the contractual responsibilities. Mr. Chapman and Ms. Higgins both provided that Mr. Chapman had a limited role in this process and was not involved in any final decisions regarding any of the MCE contracts, including CareSource's contract.

The Commission finds that Mr. Chapman's participation in CareSource's contract, through his participation on the contract readiness team, was not personal or substantial. Accordingly, the particular matter restriction would not apply to the CareSource contract and Mr. Chapman would be able to assist CareSource with this contract if needed in his prospective position.

The Commission found that Mr. Chapman's post-employment opportunity with CareSource would not violate the post-employment restrictions found in IC 4-2-6-11, so long as he refrains from engaging in executive branch lobbying for one year after leaving state employment.

Commissioner Gilroy moved to approve the Commission's findings, and Commissioner Noel seconded the motion which passed (5-0).

V. Director's Report

State Ethics Director, Jen Cooper, stated that on March 9, 2018, her office received the last outstanding Financial Disclosure Statement, making the total number of 2017 financial disclosure statements received 2,074, including both required and non-required filers, which was about 150 more than received last year. Ms. Cooper further stated that this year, unlike last year, no required filers refused to file their Financial Disclosure Statement.

Ms. Cooper also mentioned that the number of informal advisory opinions issued since the last meeting was 29, which discussed conflicts of interests, ghost employment, use of state property, gifts, post-employment restrictions, and political activity.

VI. Adjournment

Commissioner Noel moved to adjourn the public meeting of the State Ethics Commission and Commissioner Finnerty seconded the motion, which passed (5-0).

The public meeting adjourned at 10:28 a.m.

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Indiana Department of Transportation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to former INDOT employee Kevin Hetrick in his/her post-employment with Clark Dietz, Inc.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

The following information is based upon information the former employee, Kevin Hetrick, and current INDOT employee Sarah Rubin has provided to INDOT's Ethics Officer in connection with the process of considering this waiver.

Hetrick worked as a member of the INDOT I-69 Section Project Team with Sarah Rubin and Jim Stark during the preliminary project stages. Hetrick served as Co-Project Manager of this Team between October, 2014, and July, 2015, during which the alternatives had been screened and reduced from 14 to 5. According to Hetrick, he was not involved in substantial decision making over policies, rules or contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Based solely on the information provided to me by Hetrick, Kevin apparently is responsible for managing Clark Dietz's roadway and bridge design projects and staff, and the firm's construction inspection staff.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Clark Dietz usually has multiple contracts with INDOT statewide at any particular time. Kevin Hetrick has been and could be directly involved in future Clark Dietz /INDOT contracts in his new role for this consultant firm.

If Clark Dietz participates in any portion of the design or inspection of I-69 Section 6, Hetrick indicated that he would be involved in senior level project management and QC/QA. Hetrick has told INDOT's Ethics Officer that Clark Dietz is unlikely to be the prime engineering company on any aspect of I-69 Section 6, and would more likely work as a subconsultant on this project.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

It is in the public's interest and beneficial to the state, local governments, and other Indiana public entities to have Kevin's extensive experience available to provide guidance to Clark Dietz, Inc. as it performs its contractual obligations for state and public works projects throughout the state. Kevin's position with his potential employer would apply and utilize his extensive INDOT experience to provide a better product to the state and these other public agencies. It is also in the public's best interest to continue to receive a return on the investment made in Kevin during his several years working at INDOT.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

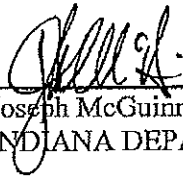
Hetrick indicated to INDOT's Ethics Officer that "Clark Dietz will need to request approval from INDOT's Selection Review Committee (SRC) to be involved in the I-69 Section project. This will definitely impact any larger engineering company from deciding to include Clark Dietz on their team. Also, I-69 Section 6 is a large project that will continue for many years. If for any reason I [Hetrick] ever need to seek new employment, not being able to participate in I-69 Section 6 could make it difficult to find a new job because companies will be leery to hire someone that forces them to seek approval from the SRC to pursue work on this mega-project."

(REST OF PAGE 3 LEFT INTENTIONALLY BLANK)

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee who obtains the waiver before engaging in the conduct that would give rise to a violation.

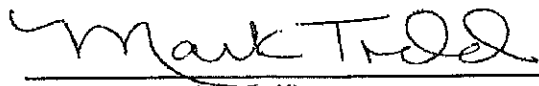


Joseph McGuinness, Commissioner
INDIANA DEPARTMENT OF TRANSPORTATION

4/30/2018
DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



Mark Tidd, Ethics Officer
INDIANA DEPARTMENT OF TRANSPORTATION

4/26/18
DATE

D. Approval by State Ethics Commission

<p>FOR OFFICE USE ONLY</p> <p>Approved by State Ethics Commission</p>
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Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.



STATE OF INDIANA

ERIC J. HOLCOMB, GOVERNOR

Indiana Department of Insurance

Stephen W. Robertson, Commissioner

311 W. Washington Street, Suite 103

Indianapolis, Indiana 46204-2787

Telephone: 317-232-2385

Fax: 317-232-5251

Website: in.gov/idoi

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of Indiana Department of Insurance ("Department"), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Wade Fulford in his post-employment with the law firm of Lewis Wagner ("Lewis Wagner").

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES 317-232-2389	COMPANY COMPLIANCE 317-232-3495	CONSUMER SERVICES 317-232-2395/1-800-622-4461	FINANCIAL SERVICES 317-232-2399	MEDICAL MALPRACTICE 317-232-2402	COMPANY RECORDS 317-232-5692	STATE HEALTH INSURANCE PROGRAM 1-800-452-4800
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B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Out of an abundance of caution, this waiver is being requested for our employee. Wade Fulford currently serves as Deputy General Counsel for the IDOI. In this capacity he functioned as the Director of the Patients' Compensation Fund ("PCF"), an excess medical malpractice fund administered by the Commissioner. From 2012-2018, Wade has defended cases against the PCF after health care providers had settled for their underlying portion of liability. Several law firms are engaged by the PCF to defend medical malpractice claims including Lewis Wagner, Wade's potential employer. Wade does not have any authority over the contracting process as the Commissioner makes the final determination on the law firm's contracts. As director of the PCF, Wade assigned and oversaw cases in which Lewis Wagner defended the PCF. Lewis Wagner served as defense counsel for the PCF prior to Wade coming to the IDOI.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Wade, as Senior Counsel, would work for Lewis Wagner in the areas of healthcare, medical malpractice, tort law, insurance defense and mediation services. He would provide legal services. He would provide legal services at a yearly salary of \$110,000.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Wade would likely have ongoing contact with the Department. Based upon the discussions with Lewis Wagner and Wade, all parties are aware of Wade's duties at the IDOI. These duties may concern issues related to medical malpractice defense and general matters regarding insurance regulation previously assigned to Lewis Wagner. It is unlikely, that any future contracts would involve decisions based on his previous work product.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The Department, state, and public benefit by having a former employee with significant knowledge of insurance regulation activities and medical malpractice defense of the PCF. His potential contributions align with the goals of the Department. This employee worked for the Department for almost eight years as a regulator and helping defend claims against the PCF. This will benefit consumers and qualified healthcare providers around the state. Furthermore, the State will not be able to attract and retain talented employees if long-term employees are not allowed to take the knowledge they built in service of the State and apply it elsewhere.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Wade has a conditional employment offer from Lewis Wagner. Inability to accept the offer would deny his family substantial income. Furthermore, given the broad scope of the Department and Wade's various roles within it, it would be difficult for him to find suitable employment with his areas of expertise that would not necessitate a waiver request.

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.


Stephen W. Robertson, Commissioner DATE May 1, 2018

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).


Cathleen Nene-Altevogt

5-1-18
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
James Clevenger, Chair, State Ethics Commission	Date

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.

8103, 1 year
Cathleen Nene-Altevogt

Croft, Celeste

From: Fulford, Wade
Sent: Tuesday, May 01, 2018 4:14 PM
To: IG Info
Cc: Fulford, Wade; Ninealtevogt, Cathleen
Subject: Post Employment Waiver request filing
Attachments: 20180501162400621.pdf

I have attached the post-employment waiver request for Wade Fulford of the IDOI. This request would be for filing for the May 10, 2018 meeting date. Thank you.

Wade D. Fulford, Deputy General Counsel
Indiana Department of Insurance
phone 317.234.6064 | fax 317.232.5251
wfulford@idoi.IN.gov

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☐☐ Please consider the environment before printing this e-mail.

-----Original Message-----

From: scanner@idoi.in.gov [mailto:scanner@idoi.in.gov]
Sent: Tuesday, May 01, 2018 4:24 PM
To: Fulford, Wade <WFulford@idoi.IN.gov>
Subject: Message from "RNP002673CAE371"

This E-mail was sent from "RNP002673CAE371" (MP C6004).

Scan Date: 05.01.2018 16:24:00 (-0400)
Queries to: scanner@idoi.in.gov

Formal Advisory Opinion Request

Office of Inspector General/State Ethics Commission

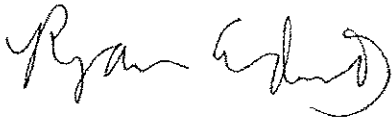
315 West Ohio Street, Room 104

Indianapolis, IN 46202

Good afternoon. I am sending this request due to moving from state employment with Vocational Rehabilitation to a job in the private sector. The private sector job also does business with VR, so I just want to make sure there will not be any concerns. I submitted an informal review, and answered the questions they sent. I have included them below. I am currently working as an Itinerant VR counselor. This position has allowed me in the past to fill in as a supervisor. The concern brought up by the informal review dealt with the fact that I signed off on authorizations and claims for billing. I do not recall actually signing off on anything for this particular vendor, but have no way to pull up everything I have signed. That is why I prefer to be safe, and let the committee take a look. The vendor also does not have an exclusive contract with the state, and is only selected through informed participant choice. I would not have been involved in the selection process in any way as an acting supervisor. I hope the questions below answer any questions. Thank you for taking the time to look at my case.

1. Can you explain what you do as a Vocational Rehabilitation counselor at FSSA in a little more detail?--- I am currently an Itinerant VR counselor. I have a variety of duties, including working directly with consumers in the form of my own caseload. I also assist with training of new employees, and fill in for supervisors when needed. When working with clients, I help them develop job goals for employment. I use a variety of tools to help them come up with a plan for employment. I help identify any services needed, while providing counseling and guidance. When a service has been identified as needed, I will provide informed choice so that the client can select the best vendor for what their needs are.
2. Does FSSA contract with the vendor you would like to work for?--- We do not have an exclusive contract with this company, but they are included in a list of providers that our clients can choose from.
 - a. If so, what is your involvement with the contract? – I do not make contract decisions.
 - b. Do you make any decisions under the contract? ---N/A

3. How does FSSA work with the vendor?---Our clients can select the vendor through informed choice for different services that they provide.
 - a. What is your involvement with the vendor as a FSSA employee?---I have signed off as a supervisor on authorizations and claims that have been generated by VR counselors including myself.
 - b. Do you refer clients to the vendor?
 - i. If so, how does this work? (i.e. Do the clients ultimately choose which vendor they choose? Does anyone review your referral?) ---I have not referred directly in over a year due to not having any clients that needed that service. When a client has been determined to need a service they are given choices of vendors to select from. They may ask questions about the different providers, but we do not make the selection for the client. They must make the selection on their own. I have had clients in previous years that have selected this vendor.
4. Does FSSA regulate or license the vendor you would like to work for? If so, are you involved in this process at all?---No we do not regulate or license this vendor.
5. What will your position be (or your duties) if you go to work for the vendor?---- I will be working in a department that deals with Medicaid programs. I will assist with overseeing home modifications for the elderly. This program is to assist Medicaid recipients in getting an accessible bathroom when needed.



Ryan Edwards

Region 3 Itinerant Counselor

Edwards, Ryan

From: Mulligan, Tiffany M
Sent: Friday, April 13, 2018 3:36 PM
To: Edwards, Ryan
Subject: Ethics Informal Advisory Opinion; Edwards; FSSA; post-employment

Ryan,

Thank you for contacting the Indiana Office of Inspector General and for providing me with additional information. I understand that you currently serve as an Itinerant Vocational Rehabilitation (VR) Counselor with the Indiana Family and Social Services Administration (FSSA).

As a VR Counselor with FSSA, you work with participants with disabilities that are looking to gain employment. You perform a variety of duties, including working directly with consumers in the form of your own caseload. You also assist with training new employees and filling in for supervisors when needed. When working with clients, you help them develop job goals for employment. You use a variety of tools to help them come up with a plan for employment. You help identify any services needed, while providing counseling and guidance. When a service has been identified as needed, you will provide informed choice so that the client can select the best vendor for their needs.

You contacted our office because you are interested in transitioning from state employment to a private company (the Company). You explain that you did not negotiate any contracts with the Company, and you do not make contract decisions at FSSA. You explain that FSSA does not have an exclusive contract with the Company, but the Company is included on a list of providers from which your clients can choose. You further explain that your clients can select the vendor through informed choice for different services that they provide. When it is determined that a client is in need of a service, they are given choices of vendors from which to select. They may ask questions about the different providers, but you do not make the selection for the client. The client must make the selection on his or her own. You have had clients in previous years that have selected the Company, but you have not referred a client to the Company in over a year due to not having any clients that needed the service the Company provides. You have signed off as a supervisor on authorizations and claims that have been generated by VR counselors, including yourself. You also write that FSSA does not regulate or license the Company.

If you go to work for the Company, you will be working in a department that deals with Medicaid programs. You will assist with overseeing home modifications for the elderly. This program is to assist Medicaid recipients in getting an accessible bathroom when needed.

Your inquiry primarily invokes consideration of IC 4-2-6-11 (42 IAC 1-5-14), which is the post-employment rule. I included all relevant rules and definitions at the end of this opinion for your reference.

Post-Employment Rule – IC 4-2-6-11

The post-employment rule consists of two separate limitations: a “cooling off” period and a particular matter restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents you from accepting employment: 1) as a lobbyist, 2) from an employer with whom you engaged in the negotiation or administration of a contract on behalf of any state agency and were in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration, or 3) from an employer for whom you made a regulatory or licensing decision that directly applied to the employer or its parent or

subsidiary, until the lapse of 365 days from when you leave state employment. In addition, you are prohibited altogether from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence you in your official capacity as a state employee.

Regarding subsection 1), you would not be able to work as an executive branch lobbyist for one year after leaving state employment. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration. Based on the information you provided, you will be overseeing home modifications for the elderly and will not be involved in lobbying. So long as your intended position would not require executive branch lobbying, then this portion of the cooling off period would not apply.

Also, based on the information provided, it does not appear that the restriction in subsection 3) applies to your prospective position, as you indicate that FSSA does not regulate or license the Company.

However, it is unclear whether the cooling off provision in subsection 2) applies to prohibit you from immediately accepting a position with the Company. Subsection 2) requires that you both a) negotiate or administer a contract, and b) be in a position to make a discretionary decision involving the negotiation or administration.

Based on the information you provided, you were not involved in the negotiation of any of the Company's contracts. You indicated, however, that you have signed off on authorizations and claims involving the Company that have been generated by VR counselors, including yourself. The State Ethics Commission (Commission) has interpreted administration of a contract broadly, and the Commission may consider your approvals of referrals to the Company as engaging in the administration of the contract FSSA has with the Company. Moreover, because you have filled in for supervisors, the Commission may consider you in a position with discretionary authority over the administration of the contract.

Therefore, based on the information provided, it is unclear whether an opportunity with the Company triggers the one-year cooling off period. You may wish to seek a formal advisory opinion from the Commission to get a public and final determination on this matter. The next Commission meeting is Thursday, May 10, 2018, and you must submit your request no later than Monday, April 30, 2018. You can find more information about the formal advisory opinion process at this link: <http://www.in.gov/ig/2334.htm>. I am happy to answer any questions you may have about this process.

You also have the option of seeking a post-employment waiver from FSSA's appointing authority. You would need to present this waiver to the Commission for their approval at one of their monthly meetings. The requirements for a post-employment waiver are set out in IC 4-2-6-11(g). If you are interested in requesting a post-employment waiver, I recommend that you contact FSSA's Ethics Officer, Latosha Higgins, about the possibility. I am happy to answer any questions that you or Ms. Higgins may have about the waiver process.

In addition to the cooling off period, please note that you are also subject to the post-employment rule's "particular matter" restriction. This restriction prevents you from working on any of the following twelve matters if you personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11) an economic development project or 12) a public works project. The term "particular matter" does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

In this instance, you would be prohibited from representing or assisting the Company or any of its clients, as well as any other person, in a particular matter that you personally and substantially participated in as a state employee. In your inquiry, you have not identified any particular matters that may apply; however, it appears that you are likely involved in various determinations and claims involving specific clients of FSSA. Please keep in mind that you would be prohibited from representing or assisting any person in any particular matter that you personally and substantially participated in as a state employee, including specific cases you have worked on at FSSA. If you have any other questions regarding your work after reviewing the twelve matters listed above, please feel free to follow up with our office.

Conflict of Interests; Decisions and Voting Rule – IC 4-2-6-9

Because you are still employed by FSSA, any post-employment opportunity would also potentially implicate IC 4-2-6-9 (42 IAC 1-5-6), which pertains to conflicts of interests. This rule prohibits you from participating in any decision or vote, or matter related to any such decision or vote, if you have knowledge that various persons may have a “financial interest” in the outcome of the matter, including yourself or an organization with whom you are negotiating or have an arrangement concerning prospective employment. Please note that this prohibition extends beyond merely the decision or vote on the matter to encompass any participation in that decision or vote. Furthermore, the State Ethics Commission has determined that negotiations commence for purposes of this rule as soon as an employer and state employee begin discussing potential employment, regardless of who initiates the contact.

You indicate that your job responsibilities as a VR counselor sometimes require you to approve authorizations and claims by VR counselors to the Company; therefore, it appears that you would have a potential conflict of interests if you participated in these decisions or matters related to these decisions. Therefore, if employment negotiations with the Company have begun, you will need to follow the steps prescribed in IC 4-2-6-9(b) to avoid violating this rule. IC 4-2-6-9(b) requires that you either file a disclosure form or request a formal advisory opinion from the Commission to avoid violating this rule. The form requires your Ethics Officer to establish a screen for you to ensure that you do not violate this rule; therefore, I would recommend you consult with your Ms. Higgins to discuss this disclosure process.

Compensation Resulting from Confidential Information Rule – IC 4-2-6-6

Finally, you should also be aware of IC 4-2-6-6, which prohibits you from accepting any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature. So long as working for the Company does not result from information of a confidential nature, any such post-employment would not violate IC 4-2-6-6.

Thank you again for submitting your question to our office. Please note that this response does not constitute an official advisory opinion. Only the Commission may issue an official advisory opinion. This informal advisory opinion allows us to give you quick, written advice. The Commission will consider that an employee or former employee acted in good faith if it is determined that the individual committed a violation after receiving advice and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as I understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to my attention.

Sincerely,

Tiffany Mulligan

Please take a few moments to provide feedback on your experience:
<https://www.surveymonkey.com/r/OIGInformals>. *Thank you!*

IC 4-2-6-1

Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(5) "Business relationship" includes the following:

- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
- (B) The relationship a lobbyist has with an agency.
- (C) The relationship an unregistered lobbyist has with an agency.

(7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(11) "Financial interest" means an interest:

- (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person;
or
- (B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

(12) "Information of a confidential nature" means information:

- (A) obtained by reason of the position or office held; and
- (B) which:
 - (i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);
 - (ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or
 - (iii) is not in a public record, but if it were, would be confidential.

(13) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

4-2-7-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(5) "Lobbyist" means an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under rules adopted by the Indiana department of administration.

IC 4-2-6-6

Present or former state officers, employees, and special state appointees; compensation resulting from confidential information

Sec. 6. No state officer or employee, former state officer or employee, special state appointee, or former special state appointee shall accept any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature.

IC 4-2-6-9

Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state officer, employee, or special state appointee.
- (2) A member of the immediate family of the state officer, employee, or special state appointee.
- (3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.
- (4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do either of the following:

(1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:

- (A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or
- (B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.

(2) File a written disclosure statement with the commission that:

- (A) details the conflict of interest;
- (B) describes and affirms the implementation of a screen established by the ethics officer;
- (C) is signed by both:
 - (i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and
 - (ii) the agency ethics officer;
- (D) includes a copy of the disclosure provided to the appointing authority; and
- (E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

IC 4-2-6-11

One year restriction on certain employment or representation; advisory opinion; exceptions; waivers; disclosure statements; restrictions on inspector general seeking state office

Sec. 11. (a) As used in this section, "particular matter" means any of the following:

- (1) An application.
- (2) A business transaction.
- (3) A claim.
- (4) A contract.

- (5) A determination.
- (6) An enforcement proceeding.
- (7) An investigation.
- (8) A judicial proceeding.
- (9) A lawsuit.
- (10) A license.
- (11) An economic development project.
- (12) A public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(b) A former state officer, employee, or special state appointee may not accept employment or receive compensation:

- (1) as a lobbyist;
- (2) from an employer if the former state officer, employee, or special state appointee was:
 - (A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and
 - (B) in a position to make a discretionary decision affecting the:
 - (i) outcome of the negotiation; or
 - (ii) nature of the administration; or

(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer; before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

- (1) employment; or
- (2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of the individual's duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the commission certifying that:

- (1) employment of;
- (2) consultation by;
- (3) representation by; or
- (4) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

(f) Subsection (b) does not apply to the following:

- (1) A special state appointee who serves only as a member of an advisory body.
- (2) A former state officer, employee, or special state appointee who has:
 - (A) not negotiated or administered any contracts with that employer in the two (2) years before the beginning of employment or consulting negotiations with that employer; and
 - (B) any contract that:

- (i) the former state officer, employee, or special state appointee may have negotiated or administered before the two (2) years preceding the beginning of employment or consulting negotiations; and
- (ii) is no longer active.

(g) An employee's or a special state appointee's state officer or appointing authority may waive application of subsection (b) or (c) in individual cases when consistent with the public interest. A waiver must satisfy all of the following:

- (1) The waiver must be signed by an employee's or a special state appointee's:
 - (A) state officer or appointing authority authorizing the waiver; and
 - (B) agency ethics officer attesting to form.
- (2) The waiver must include the following information:
 - (A) Whether the employee's prior job duties involved substantial decision making authority over policies, rules, or contracts.
 - (B) The nature of the duties to be performed by the employee for the prospective employer.
 - (C) Whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee.
 - (D) Whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest.
 - (E) The extent of economic hardship to the employee if the request for a waiver is denied.
- (3) The waiver must be filed with and presented to the commission by the state officer or appointing authority authorizing the waiver.
- (4) The waiver must be limited to an employee or a special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of subsection (b) or (c).

The commission may conduct an administrative review of a waiver and approve a waiver only if the commission is satisfied that the information provided under subdivision (2) is specifically and satisfactorily articulated. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

(h) Subsection (b) applies, subject to waiver under subsection (g), to a former state officer, employee, or special state appointee who:

- (1) made decisions as an administrative law judge; or
- (2) presided over information gathering or order drafting proceedings;

that directly applied to the employer or to a parent or subsidiary of the employer in a material manner.

(i) A former state officer, employee, or special state appointee who forms a sole proprietorship or a professional practice and engages in a business relationship with an entity that would otherwise violate this section must file a disclosure statement with the commission not later than one hundred eighty (180) days after separation from state service. The disclosure must:

- (1) be signed by the former state officer, employee, or special state appointee;
- (2) certify that the former state officer, employee, or special state appointee is not an employee of the entity; and
- (3) state in detail the treatment of taxes, insurance, and any other benefits between the entity and the former state officer, employee, or state appointee.

(j) The inspector general may not seek a state elected office before the elapse of at least three hundred sixty-five (365) days after leaving the inspector general position.

Tiffany Mulligan
Chief Legal Counsel
Office of Inspector General/State Ethics Commission

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From: Edwards, Ryan
Sent: Friday, April 13, 2018 9:42 AM
To: Mulligan, Tiffany M <TMulligan@ig.IN.gov>
Subject: RE: 2018-IN-0113/Ethics IAO Edwards

Good Morning

Thank you for your assistance. I have added the answers below. Please let me know if there is anything else you need.

1. Can you explain what you do as a Vocational Rehabilitation counselor at FSSA in a little more detail?--- I am currently an Itinerant VR counselor. I have a variety of duties, including working directly with consumers in the form of my own caseload. I also assist with training of new employees, and fill in for supervisors when needed. When working with clients, I help them develop job goals for employment. I use a variety of tools to help them come up with a plan for employment. I help identify any services needed, while providing counseling and guidance. When a service has been identified as needed, I will provide informed choice so that the client can select the best vendor for what their needs are.
2. Does FSSA contract with the vendor you would like to work for?--- We do not have an exclusive contract with this company, but they are included in a list of providers that our clients can choose from.
 - a. If so, what is your involvement with the contract? -- I do not make contract decisions.
 - b. Do you make any decisions under the contract? ---N/A
3. How does FSSA work with the vendor?---Our clients can select the vendor through informed choice for different services that they provide.
 - a. What is your involvement with the vendor as a FSSA employee?---I have signed off as a supervisor on authorizations and claims that have been generated by VR counselors including myself.
 - b. Do you refer clients to the vendor?
 - i. If so, how does this work? (i.e. Do the clients ultimately choose which vendor they choose? Does anyone review your referral?) ---I have not referred directly in over a year due to not having any clients that needed that service. When a client has been determined to need a service they are given choices of vendors to select from. They may ask questions about the different providers, but we do not make the selection for the client. They must make the selection on their own. I have had clients in previous years that have selected this vendor.
4. Does FSSA regulate or license the vendor you would like to work for? If so, are you involved in this process at all?---No we do not regulate or license this vendor.

5. What will your position be (or your duties) if you go to work for the vendor?--- I will be working in a department that deals with Medicaid programs. I will assist with overseeing home modifications for the elderly. This program is to assist Medicaid recipients in getting an accessible bathroom when needed.

I hope this is useful information. I would be glad to assist more if needed. Thanks, and have a great day!

From: Mulligan, Tiffany M
Sent: Thursday, April 12, 2018 11:58 AM
To: Edwards, Ryan
Subject: FW: 2018-IN-0113/Ethics IAO Edwards

Ryan,

Thank you for contacting the Indiana Office of Inspector General with your ethics question. I am working on an informal advisory opinion in response to your question. I had a couple of questions to make sure I understand the facts involved. Can you please provide responses to the following questions?

1. Can you explain what you do as a Vocational Rehabilitation counselor at FSSA in a little more detail?
2. Does FSSA contract with the vendor you would like to work for?
 - a. If so, what is your involvement with the contract?
 - b. Do you make any decisions under the contract?
3. How does FSSA work with the vendor?
 - a. What is your involvement with the vendor as a FSSA employee?
 - b. Do you refer clients to the vendor?
 - i. If so, how does this work? (i.e. Do the clients ultimately choose which vendor they choose? Does anyone review your referral?)
4. Does FSSA regulate or license the vendor you would like to work for? If so, are you involved in this process at all?
5. What will your position be (or your duties) if you go to work for the vendor?

Thank you for any additional information you can provide.

Tiffany

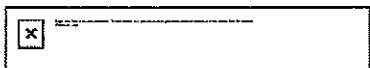
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From: noreply@formstack.com [mailto:noreply@formstack.com]
Sent: Thursday, April 12, 2018 8:56 AM
To: IG Info <info@ig.IN.gov>; ccarrasco@ig.in.gov; Cooper, Jennifer <JCooper@ig.IN.gov>
Subject: Advice

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Formstack Submission For: ig_2334
Submitted at 04/12/18 8:55 AM

Name:	ryan edwards
Email:	ryan.edwards@fssa.in.gov
Phone:	(317) 452-9645
State Agency:	Vocational Rehabilitation
Description of Your State Occupation:	I am a Vocational Rehabilitation counselor. I work with participants with disabilities that are looking to gain employment.
What is your ethics question?:	I am transitioning from state employment to a private company. They are on the list of vendors that VR works with. I did not negotiate any contracts with this company, and will not be working in a position that interacts with VR. I just want to make sure it is ok to accept the position.

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Eric Holcomb, Governor
State of Indiana

Office of General Counsel
402 W. WASHINGTON STREET, ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

April 30, 2018

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

RE: Request for Formal Advisory Opinion for Timothy Hawkins

Dear Chairman Clevenger and members of the Ethics Commission:

The Indiana Family and Social Services Administration (“FSSA”), on behalf of Timothy Hawkins, requests a Formal Advisory Opinion from the State Ethics Commission addressing conflicts of interest and post employment restrictions for Mr. Hawkins.

Mr. Hawkins began working for FSSA as contractor through Knowledges Services in March 2017 in the Office of Medicaid Policy and Planning (“OMPP”). OMPP oversees the administration of Indiana Health Coverage Programs (“IHCP”), which include Medicaid, the Children’s Health Insurance Program (“CHIP”) and the Healthy Indiana Plan. Mr. Hawkins became an FSSA employee in February 2017. His duties include ensuring that Medicaid reimbursement rates and payments are established and implemented in accordance with the State Plan, state and federal laws and regulations. The purpose of his position is to effectively manage the Medicaid and CHIP state plan amendment process ensuring compliance with all IHCP programs, the Code of Federal Regulations, Indiana Code, and Centers for Medicare and Medicaid Services (“CMS”) requirements. He collaborates with FSSA and CMS staff to ensure amendments are submitted timely and tracks pending state plan amendments to ensure compliance with CMS deadlines. He also maintains the OMPP Civil Rights Plan and provides assistance to the OMPP Government Affairs Analyst and Manager of State Plans and Projects, among other duties.

On April 24, 2018, Mr. Hawkins notified me that he applied for a consultant position with Public Consulting Group (“PCG”) on April 6, 2018. He completed a phone interview on April 10, 2018 and an in person interview on April 25, 2018. I reviewed the post-employment restrictions with Mr. Hawkins. Additionally, his supervisor has put in place an internal screen so that Mr. Hawkins does not have any involvement with matters related to PCG.



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PCG is a for profit company providing management consulting and technology services to public sector education, health, human services, and other government. The company is headquartered in Boston, Massachusetts with offices in the United States, Canada, England and Poland. FSSA currently has contracts with PCG-Indiana, Inc. through the Divisions of Aging and Division of Disability and Rehabilitative Services. These PCG contracts are administered at the division level by the respective divisions. Mr. Hawkins does not have any involvement with these contracts.

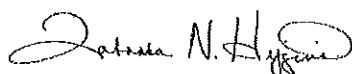
Mr. Hawkins has neither engaged in the negotiation or administration of any contract between the FSSA and PCG. Nor was he in a position to make any discretionary decisions affecting the outcome of the negotiation or administration of any contract with PCG. Mr. Hawkins' only involvement with matters related to PCG was in 2017 for three months when he assisted a team of two FSSA employees reviewing the FSSA Home and Community Based Services Statewide Transition Plan for grammar and structure while working as a contractor to FSSA through Knowledges Services. He has not worked on any matters related to any contract with PCG since that time. Furthermore, he supervisor is currently screening him by not assigning any Home and Community Based Services Statewide Transition Plan work to him.

Mr. Hawkins' role as a consultant with PCG would include tasks on a variety of consulting and operational projects; including travel to client sites for meetings, observations, focus groups, and data collection. He would be expected to complete a wide range of work assignments that may include data collection, quantitative analysis, report design, report drafting, and preparation of various materials for client presentations.

Mr. Hawkins knows and understands that Indiana's ethics laws will continue to apply to him as a private sector employee. He understands and agrees not to divulge confidential information of FSSA during his post-employment endeavors. Furthermore, Mr. Hawkins understands and agrees to abide by the one-year restriction regarding registering as an executive branch lobbyist.

Given that Mr. Hawkins would not use confidential information in his potential employment with PCG; that he did not make any regulatory or licensing decisions that directly related to PCG who is not regulated by FSSA; that as an employee that he did not personally or substantially work on any matter identified as a particular matter under IC 4-2-6-11; that there is no evidence that the position was offered to him to influence him in his capacity as an FSSA employee; and that has he not participated in any decision vote or other matter related to such decision or vote in which he by virtue of his employment negotiations with PCG or PCG would have any financial interest, we believe Mr. Hawkins's outside employment is permissible under Indiana's ethics laws and that he should be able to accept a position with PCG immediately upon leaving employment.

Sincerely,



Latosha N. Higgins
Managing Attorney and Ethics Officer

Croft, Celeste

From: Higgins, Latosha
Sent: Monday, April 30, 2018 4:26 PM
To: Croft, Celeste
Subject: RE: Requests for Formal Advisory Opinion for Timothy Hawkins
Attachments: Hawkins T. Ethics Commission Ltr. 4.30.18.pdf

My apologies. Here is the corrected copy.

From: Croft, Celeste
Sent: Monday, April 30, 2018 4:14 PM
To: Higgins, Latosha <Latosha.Higgins@fssa.IN.gov>
Subject: RE: Requests for Formal Advisory Opinion for Timothy Hawkins

Dear Ms. Higgins:

The attachment on this one also says May 24, 2018.

Thank you.

Celeste Croft, Legal Assistant
Office of the Inspector General
315 W. Ohio Street, Room 104
Indianapolis, IN 46202
ccroft@ig.in.gov
T: 317-232-3850
F: 317-232-0707

From: Higgins, Latosha
Sent: Monday, April 30, 2018 4:12 PM
To: IG Info <info@ig.IN.gov>
Cc: Hawkins, Timothy B <Timothy.Hawkins@fssa.IN.gov>
Subject: Requests for Formal Advisory Opinion for Timothy Hawkins

Dear Ethics Commission,

Attached please find a revised Request for a Formal Advisory Opinion on behalf of Timothy Hawkins for the May 10, 2018 meeting of the Ethics Commission. Please disregard the previous email contained a typographical error that incorrectly stated that we met on May 24, 2018.

Please do not hesitate to contact me with any questions.

Latosha N. Higgins
Managing Attorney and Ethics Officer
Office of General Counsel

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Eric Holcomb, Governor
State of Indiana

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April 30, 2018

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

RE: Request for Formal Advisory Opinion for Erin Quiring

Dear Chairman Clevenger and members of the Ethics Commission:

The Indiana Family and Social Services Administration ("FSSA"), on behalf of Erin Quiring, requests a Formal Advisory Opinion from the State Ethics Commission addressing conflicts of interest and outside employment.

Ms. Quiring joined the Division of Mental Health and Addiction ("DMHA") within the Family and Social Services Administration in December of 2012 as a Provider & Community Liaison. In July of 2015, Ms. Quiring was promoted to the position of Assistant Deputy Director for Quality Improvement. In that role, she is responsible for managing the team that conducts audits and reviews complaints regarding DMHA's certified community mental health centers, licensed private mental health institutions, and certified addiction service providers. Ms. Quiring oversees a contract with Intecare, Inc. ("Intecare"), a nonprofit healthcare management service that conducts annual consumer satisfaction surveys of consumers of mental health and addiction services provided by DMHA certified entities. Her responsibilities include processing Intecare's claims under the contract.

In the past Ms. Quiring has also provided updated DMHA provider information to the 211 Database. Aside from providing this information to the 211 Database, she has no other interaction or involvement with Connect2Help ("C2H") or the Indiana 2-1-1 Partnership ("IN211") in her position at FSSA.

Ms. Quiring also works part-time for C2H, a non-for-profit organization that provides consumers community resources to address their basic needs, including information regarding mental health and addiction treatment facilities such as the CMHCs, licensed private mental health institutions and certified addiction services providers that Ms. Quiring's team audits. C2H is a member of



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the Indiana 2-1-1 Partnership (IN211), an independent nonprofit organization that convenes all 2-1-1 centers in Indiana around various topics that impact the 2-1-1 system in Indiana. IN211 contracts with State agencies for state-wide projects. IN211 contracts for the following three through three different divisions in FSSA: Supplemental Nutrition Assistance Program through the Division of Family Resources; the Adult Protective Services reporting hotline through the Division of Aging; and the Open Beds project through DMHA. IN211 also has a contract with the Indiana State Department of Health. C2H has a business relationship with IN211 where C2H is reimbursed for providing services related to the aforementioned contracts for its primary service area at all times and after hours and weekend coverage for services related to the contracts IN211 has with state agencies, including FSSA, for the entire state. Ms. Quiring's compensation is not directly billed to any FSSA contract or other state contract to her knowledge. Rather the source of her compensation is C2H's general operating funds.

Ms. Quiring worked for C2H from February of 2005 to February of 2007. She returned to C2H in October of 2010 and worked full-time at C2H until she began employment with FSSA. Since December of 2012, Ms. Quiring has worked part-time as a supervisor and hiring specialist. She currently serves as a supervisor an average of one day per week and as needed when the C2H is hiring. When serving as a supervisor, Ms. Quiring ensures Information and Referral Specialists ("I&R Specialists") are receiving breaks. She also answers questions related to the calls I&R Specialists receive. Occasionally, she may take a call when the agency is short-staffed, there is a call in Spanish, or when a caller requests to speak to a supervisor.

When she takes a call her duties include serving as the point of contact for individuals calling for information about available resources for their various needs. She uses a database at C2H to provide information about resources to callers. She provides only basic information to callers. Additionally, she adheres to C2H policies and procedures, which may include a script depending on the type of call.

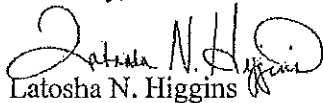
There is the potential that in performing her duties as a supervisor and hiring specialist for C2H that Ms. Quiring may receive a call regarding a resource that includes the CMHCs, licensed private mental health institutions and certified addiction services providers that her team audits. In which instance, Ms. Quiring would be required to provide the appropriate information to the individual. However, Ms. Quiring has no discretion in selecting the resources that she provides to callers. Rather the information provided is based on the location of the caller. For example, when a caller requests resources, Ms. Quiring gathers information including the zip code for the caller. She enters the information into the database and the database populates the available resources. Ms. Quiring is required to provide the information populated by the database, unless the consumer requests a resource outside of their area.

Based on the information presented, we believe that Ms. Quiring's part-time employment is not incompatible with her duties at FSSA nor does it require recusal from her official responsibilities. Furthermore, in her role as the Program Director she is not in a position to participate in any decisions or votes or other matters related to a decision or vote where C2H would have a financial interest.

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Given that the relationship between Ms. Quiring's part-time employer C2H has a business relationship where it receives payments from a contractor with multiple contracts with the state, and that Ms. Quiring's position as supervisor and hiring specialist may include providing services related to those contracts, on behalf of Ms. Quiring we seek a formal advisory opinion regarding whether she may continue her part-time employment without violating IC 4-2-6-10.5 and its prohibitions against an employee knowingly having a financial interest in a contract made by a state agency, unless the employee does not have contracting responsibilities and files a written disclosure. We also seek a formal opinion on her behalf on the applicability of IC 35-44.1-1-4, which prohibits certain public servants from having a pecuniary interest in or deriving a profit from a contract with the public servant's agency, to her circumstances.

Sincerely,



Latosha N. Higgins
Managing Attorney and Ethics Officer

Croft, Celeste

From: Higgins, Latosha
Sent: Monday, April 30, 2018 4:33 PM
To: IG Info
Cc: Quiring, Erin
Subject: Request for Formal Advisory Opinion for Erin Quiring
Attachments: Quiring Erin May 2018 Ethics Commission Letter 4. 30.18.pdf

Dear Ethics Commission,

The Family and Social Services Administrations submits the attached Requests for a Formal Advisory Opinion on behalf of Erin Quiring for the May 10, 2018 meeting of the Ethics Commission.

Please do not hesitate to contact me with any questions.

Latosha N. Higgins
Managing Attorney and Ethics Officer
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Indiana Family and Social Services Administration
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April 30 2018

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

RE: Request for Formal Advisory Opinion for Melissa Carroll

Dear Chairman Clevenger and members of the Ethics Commission:

The Indiana Family and Social Services Administration (“FSSA”), on behalf of Melissa Carroll, requests a Formal Advisory Opinion from the State Ethics Commission addressing conflicts of interest and outside employment. Ms. Carroll is an FSSA employee who also holds a part-time position as an Information and Referral Specialist (“I & R Specialist”) with Connect2Help (C2H), a nonprofit information and referral phone service that contracts with Indiana 211 Partnership Inc., a contractor with FSSA and the Indiana Department of Health.

Ms. Carroll joined the Division of Mental Health and Addition (“DMHA”) within the Family and Social Services Administration in November 2013. In February 2018, Ms. Carroll was promoted to the position of Program Director for Projects for Assistance in Transition from Homelessness (“PATH”), a Federal grant program that allows funding to be distributed for homeless outreach teams at selected local, public, or non-for-profit organizations. These teams are responsible for outreach to individuals who have a Serious Mental Illness and/or Substance Use Disorder who are chronically homeless or at imminent risk of becoming homeless.

Under the PATH program, DMHA contracts with the following 13 Community Mental Health Center (“CMHC”) providers: Adult & Child, Aurora, Centerstone, Health & Hospital, Hamilton Center, LifeSpring, Meridian, MHA of Vigo County, Oaklawn, Park Center, Porter-Starke, Swanson and Wabash. Each CMHC has homeless outreach workers that go out into the community to engage, assess and enroll potential consumers into the PATH program. The CMHCs submit their claims submitted monthly with deliverables. These deliverables are supportive documents provided by the CMHC as proof of services provided and salaries paid to PATH staff. Ms. Carroll’s duties include reviewing claims submissions for reimbursement services provided, responding to CMHC questions regarding PATH, providing education and conducting annual quality assurance site visits. Ms. Carroll’s recommendations regarding the payment of claims are



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subject to two levels of review by DMHA Deputy Directors. Pursuant to Health Insurance Portability and Accountability Act, the claims that Ms. Carroll reviews do not include individual names of consumers.

Since January 2013, Ms. Carroll has worked for C2H, a non-for-profit organization that provides consumers community resources to address their basic needs, including information regarding mental health and addiction treatment facilities such as the CMHCs that Ms. Carroll monitors for the PATH program. C2H is a member of the Indiana 2-1-1 Partnership (IN211), an independent nonprofit organization that convenes all 2-1-1 centers in Indiana around various topics that impact the 2-1-1 system in Indiana. IN211 contracts with State agencies for state-wide projects. IN211 contracts for the following three through three different divisions in FSSA: Supplemental Nutrition Assistance Program through the Division of Family Resources; the Adult Protective Services reporting hotline through the Division of Aging; and the Open Beds project through DMHA. IN211 also has a contract with the Indiana State Department of Health. C2H has a business relationship with IN211 where C2H is reimbursed for providing after hours and weekend coverage for services related to the contracts IN211 has with state agencies, including FSSA. Ms. Carroll's compensation is not directly billed to any FSSA contract or other state contract to her knowledge. Ms. Carroll informed me that per Marilyn Cummins, Accounting & Human Resources Manager for C2H, information and referral specialists (I&R Specialist) are not paid directly from any state contract. Rather they are paid from a general pool of funding that includes state grants and non-state contracts.

Ms. Carroll works every other Friday, Saturday and Sunday as an I&R Specialist for C2H. Her duties include serving as the point of contact for individuals calling for information about available resources for their various needs. She uses a database at C2H to provide information about resources to callers. She does not have any input or control over which resources are included in the database. As an I&R Specialist she is required to provide only basic information to callers. Additionally, she generally adheres to a script and is subject to quality assurances review to ensure that she is adhering to C2H policies and procedures.

C2H places I&R Specialists in specific groups that allow them to have access to certain type of calls from individuals requesting assistance. The groups include: Crisis calls (i.e. suicide hotline), Open Beds, the Energy Assistance Program, and Vermont211. Open Beds is the only group Ms. Carroll currently is not in. Although Ms. Carroll has been briefed about the Open Beds project, she has not received any training through C2H. Therefore, she is not permitted to handle calls regarding inquiries about the Open Beds project at this time.

Open beds is a DMHA program used to help address the opioid crisis. It is another resource for anyone looking for treatment for an opioid addiction. The purpose of the program is to be able to see available beds at selected locations in real time. The program is administered by the DMHA addictions team. Ms. Carroll is not a member of the DMHA addiction team.

The PATH program is separate and distinct from Open Beds. Furthermore, Ms. Carroll duties at FSSA do not include any involvement with the Open Beds project.

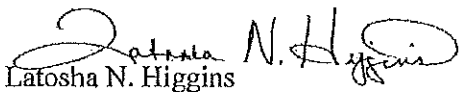
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There is the potential that in performing her duties as an I&R Specialist for C2H that Ms. Carroll may receive a call requesting a resource that includes the CMHCs that she oversees for the PATH program. In which instance, Ms. Carroll would be required to provide the appropriate information to the individual. However Ms. Carroll has no discretion in selecting the resources that she provides to callers. Rather the information provided is based on the location of the caller. For example, when a caller requests resources, Ms. Carroll gathers information including the zip code for the caller. She enters the information into the database and the database populates the available resources. Ms. Carroll is required to provide the information populated by the database, unless the consumer requests a resource outside of their area.

Based on the information presented, we believe that Ms. Carroll's part-time employment is not incompatible with her duties at FSSA nor does it require recusal from her official responsibilities. Furthermore, in her role as the Program Director she is not in a position to participate in any decisions or votes or other matters related to a decision or vote where C2H would have a financial interest.

Given that the relationship between Ms. Carroll's part-time employer C2H has a business relationship where it receives payments from a contractor with multiple contracts with the state, and that Ms. Carroll's position as an I&R Specialist may include providing services related to those contracts, on behalf of Ms. Carroll we seek a formal advisory opinion regarding she may whether continue her part-time employment and commence taking Open Bed calls without violating IC 4-2-6-10.5 and its prohibitions against an employee knowingly having a financial interest in a contract made by a state agency, unless the employee does not have contracting responsibilities and files a written disclosure. We also seek a formal opinion on her behalf on the applicability of IC 35-44.1-1-4, which prohibits certain public servants from having a pecuniary interest in or deriving a profit from a contract with the public servant's agency, to her circumstances.

Sincerely,


Latosha N. Higgins
Managing Attorney and Ethics Officer

Croft, Celeste

From: Higgins, Latosha
Sent: Monday, April 30, 2018 4:47 PM
To: IG Info
Cc: Carroll, Melissa
Subject: Request for Formal Advisory Opinion for Melissa Carroll
Attachments: Carroll, M. May 2018 Ethics Commission Letter.pdf

Dear Ethics Commission,

The Family and Social Services Administrations submits the attached Requests for a Formal Advisory Opinion on behalf of Melissa Carroll for the May 10, 2018 meeting of the Ethics Commission.

Please do not hesitate to contact me with any questions.

Latosha N. Higgins
Managing Attorney and Ethics Officer
Office of General Counsel
Indiana Family and Social Services Administration
402 West Washington Street, Room W451
Indianapolis, IN 46204
(317) 232-0246
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