

[Advisory Opinion 1997-14]

August 15, 1997

[Name1 withheld]
Department of Health & Human Services

Dear [Name1 withheld]:

The Ethics Commission has considered your June 5, 1997 request for a formal opinion regarding the precautions you have taken to avoid a conflict of interest involving a County contract with a family member.

As you explained in your correspondence, you are the [Position withheld], with the Department of Health and Human Services (DHHS). You are responsible for policy making, partnership development and administration. You do not have contract administration authority or contract monitoring responsibilities. However, you do supervise employees who monitor contracts. Last year, [Name2 withheld], your brother-in-law, was awarded a County contract to render dentistry services. Upon learning of your brother-in-law's intention to bid on the contract, you removed yourself from all aspects of the precontract process and then assigned the monitoring responsibilities for the contract to a nurse administrator in your unit. Further, you directed this nurse administrator to report to the Director of DHHS regarding any issues relating to your brother-in-law's contract.

Section 19A-11 governs conflicts of interest and prohibits a County employee from participating in County matters affecting a relative's business, economic interests or prospective employment opportunities. See 19A-11(1)(C), (2)(B), (2)(D), (2)(E), (2)(F)(ii). Section 19A-4(n)(2) defines the term "relative" to include a spouse's sibling.

As you are aware, Section 19A-11 applies to your situation and prohibited your participation in the selection of your brother-in-law for the County contract. Similarly, Section 19A-11 prohibits your administration or supervision of this contract.

According to your correspondence with the Commission, it appears that you independently recognized this ethics issue and voluntarily sought to limit your participation. The Commission has reviewed the procedures that you have followed and the manner in which you have chosen to recuse yourself. The Commission has concluded that you have instituted appropriate procedures to ensure your non-participation. Of course, you will need to be mindful of the nurse administrator's dual role as your subordinate and the person assigned to perform monitoring responsibilities on the contract.

In sum, the Ethics Commission has determined that you have appropriately recused

yourself. The Commission appreciates your sensitivity to these matters. We hope that this opinion is responsive to your request.

Sincerely,
[signed]
Laurie B. Horvitz
Chair