



MONTGOMERY COUNTY ETHICS COMMISSION

Rahul K. Goel
Chair

Steven Rosen
Vice Chair

April 5, 2019

Waiver 19-04-007

Pursuant to § 19A-12(b)(1)(B) of the Public Ethics Law, a public employee must not be employed by a business that negotiates or contracts with the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver. Section 19A-8(b)(3) states that the Ethics Commission may grant a waiver of this prohibition if the Commission concludes that the outside employment will not be likely to create an actual conflict of interest.

Julie Mowdy is a Community Health Nurse II with the Public Health Services (PHS) Division, School Health Services Section at the Montgomery County Department of Health and Human Services (DHHS). She would like to engage in outside employment as a Nurse Monitor with Advanced Nursing and Home Support, an entity that has contracts with DHHS. As Ms. Mowdy's proposed outside employer contracts with DHHS, the outside employment is barred pursuant to 19A-12(b)(1)(B), absent her obtaining a waiver from the Ethics Commission under Section 19A-8(b)(3).

As a Community Health Nurse II with PHS, Ms. Mowdy's responsibilities include case management, assessment, intervention and education, care plans, care coordination and health room management. The population she serves is comprised of children and adolescent students at the assigned school within the Montgomery County Public School system. She has no contract monitoring or procurement responsibilities in her County role.

In her role at Advanced Nursing and Home Support, Ms. Mowdy would be a nurse monitor. She would be tasked with the development of a plan of care for each CFC (Community First Choice) participant and modification of this plan as needed. She would communicate with medical professionals, develop a Caregiver Service Plan and document what personal care assistance is needed to help the client with activities of daily living. She would provide supervision, instruction, and evaluation of Personal Care Assistance providers. Finally, she would perform quality oversight of the agency-based provider to include monitoring of the client's health status and outcomes of the Personal Care Assistance service. She has no contract monitoring or procurement responsibilities in her role with Advanced Nursing and Home Support.

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Advanced Nursing and Home Support has two contracts with DHHS for case management and nurse monitoring. Ms. Mowdy's role with Advanced Nursing and Home Support would be paid through the funds the organization receives from DHHS. However, Ms. Mowdy would have no ability to affect the contracts between the two entities in either of her roles. Her roles are wholly separate and distinct from one another. While there is potential for overlap between the patient populations, this is unlikely. If an overlap were to occur, Ms. Mowdy would ask her Advanced Nursing and Home Support supervisor to assign the overlap case to another nurse monitor.

A waiver may be issued by the Ethics Commission upon a finding that an actual conflict of interest is unlikely. While Ms. Mowdy's proposed position with Advanced Nursing and Home Support is funded by contracts the organization has with DHHS, she exercises no contract monitoring or procurement functions in either of her roles and is not in a position to alter the contracts in any way. The division of DHHS funding the contract is separate from Ms. Mowdy's employing division. Her proposed role with Advanced Nursing and Home Support amounts to a maximum of 16 hours a month, so her salary from the organization will be a very small percentage of the overall funds Advanced Nursing and Home Support receives from the County. The populations she serves in both roles are separate and distinct from one another, with very little chance of overlap.

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the prohibition of § 19A-12(b) if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest. Upon a review of the request and the Department's concurrence in and support for the waiver request, the Commission finds that there is no actual conflict of interest. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of § 19A-12(b).

In reaching this decision, the Commission has relied upon the facts presented by Ms. Mowdy in her request for a waiver. The waiver approval is conditioned on the facts on which the waiver was based remaining unchanged. It is also conditioned on Ms. Mowdy not providing services for Advanced Nursing and Home Support to anyone who she is providing services to or has provided services to as a County employee, and her not, as a County employee, making referrals to the outside business or soliciting other County employees to make such referrals.

For the Commission:



Rahul K. Goel, Chair