



MONTGOMERY COUNTY ETHICS COMMISSION

Rahul K. Goel
Chair

Susan Beard
Vice Chair

December 26, 2019

Waiver 19-11-018

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 of the prohibition. 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.

Aimee Ochoa is a Social Worker III with the Aging and Disability Services (ADS) Division, Adult Protective and Case Management Services (APCMS) Section at the Montgomery County Department of Health and Human Services (DHHS). She would like to engage in outside employment as a Needs Assessment Clinician with Adventist Healthcare/Shady Grove Medical Center (Adventist), an entity that has contracts with DHHS. As the proposed outside employer contracts with DHHS, the outside employment is barred pursuant to 19A-12(b)(1)(B), unless the Ethics Commission issues a waiver pursuant to Section 19A-8(b)(3).

At APCMS, as a Social Worker III, Ms. Ochoa investigates allegations of Abuse, Neglect, Self-Neglect, and Financial Exploitation. She goes into the community to see clients and to assess them. Based on that assessment, she determines what resources they need and how assistance can be provided. In her role with APCMS, she works with individuals in the County who are deemed to be vulnerable or at risk. In general terms, she works with elderly individuals and individuals with developmental disabilities.

In Ms. Ochoa's position as a Needs Assessment Clinician at Adventist, she will work in the Emergency Room. She will conduct mental health evaluations for individuals who may be experiencing a mental health crisis in order to determine if the patient needs to be hospitalized, needs a partial-hospitalization program, or needs to follow up with outpatient mental health treatment. In her proposed role with Adventist, she would be dealing with individuals in Montgomery County who may be experiencing a mental health crisis.

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Conceivably, there could be a population overlap between the people APCMS assists and the people who seek mental health services with Adventist. However, if Ms. Ochoa is presented with a crossover case while working either at APCMS or at Adventist, Ms. Ochoa will ask a colleague to handle that patient.

Adventist has five contracts with divisions at DHHS, but none of those contracts fund Ms. Ochoa's role with Adventist. The DHHS contracts fund prenatal care to disadvantaged pregnant women in the County, cancer screening and treatment to County residents and assisted living services to mentally ill residents in the County.

Additionally, in her role at DHHS, Ms. Ochoa holds no contract monitoring or procurement responsibilities and she is not involved in matters affecting Adventist. At Adventist, Ms. Ochoa does not work on matters related to DHHS contracts with Adventist.

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 commitments of Ms. Ochoa and the Department's concurrence in and support for the waiver request, the Commission finds that the proposed employment is not likely to create an 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. Ochoa in her request for a waiver. The Commission notes that while 19A-12(b)'s prohibition is waived, the other provisions of the ethics law are not, including those prohibiting an employee from working on official matters relating to the outside employer. The waiver approval is conditioned on the facts on which the waiver is based remaining unchanged. It is also conditioned on Ms. Ochoa not making referrals as a County employee to the outside business or soliciting other County employees to make such referrals.

For the Commission:



Rahul K. Goel, Chair