



MONTGOMERY COUNTY ETHICS COMMISSION

March 15, 2022

Waiver 22-03-007

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.

Dawn Pollard is a part time, temporary, Community Health Nurse II (CHN II) in the Communicable Disease and Epidemiology Section (CDES) of Public Health Services (PHS) Division at Montgomery County Department of Health and Human Services (DHHS). She would like to engage in outside employment as a Vaccination Nurse at Maxim Healthcare Group, an entity which has contracts with DHHS.

I. Relevant Facts

At DHHS, Ms. Pollard provides Covid-19 vaccines to children above 5 years and to adults. The position is temporary and part time, and she works up to four hours per month. So far, she has worked one shift for Montgomery County DHHS.

At Maxim Healthcare Group, Ms. Pollard provides Covid vaccinations. While she actually works as needed with Maxim, her current assignment is classified as a full-time position. She is seeking to be assigned to the clinic at Montgomery College Germantown. This role with Maxim Healthcare Group is directly related to the contract for which Maxim Healthcare Group receives DHHS funding. Ms. Pollard's role with Maxim Healthcare Group predates her role with DHHS.

In her role at DHHS, Ms. Pollard holds no contract monitoring or procurement responsibilities and she is not involved in matters affecting Maxim Healthcare Group's contract with DHHS. Her outside employment role with Maxim Healthcare Group is directly funded by the County; however, she has no authority to affect that contract and simply administers vaccinations.

ii. How the waiver standard has been met

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A waiver may be issued by the Ethics Commission upon a finding of no likelihood of an actual conflict of interest. While Ms. Pollard's outside employment with Maxim is paid for through County funds, Ms. Pollard has no authority to affect the contract between DHHS and her outside employer. Additionally, she is a part time worker for the County.

In concurring in the waiver request, the DHHS agency head's designee for review of the request stated that Ms. Pollard would be unable to influence the contract in any way. The designee indicated that the contract DHHS has with Maxim is an emergency contract specifically to address needs in the Department related to COVID. Staffing has been a challenge to address needs of the County during the pandemic, and it is not in the interests of the County to turn away those willing to work, especially in a nursing capacity.

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).

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 approval of this waiver is conditioned on the facts on which the waiver is based remaining unchanged. **In particular, if the contract between DHHS and Maxim materially changes from an emergency contract to a general staffing contract, this waiver will no longer be valid.** This waiver is also conditioned on Ms. Pollard not making referrals as a County employee to Maxim or soliciting other County employees to make such referrals.

This waiver expires when the outside employment approval with which it is associated expires, unless a continuation request for outside employment is timely filed and subsequently approved by the Ethics Commission. In reaching this decision, the Commission has relied upon the facts as presented by Ms. Pollard.

For the Commission:



Susan Beard, Chair