



MONTGOMERY COUNTY ETHICS COMMISSION

June 22, 2022
Waiver 22-06-010

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.

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/Field Supervisor with Advanced Nursing and Home Support (“Advanced”), an entity that has contracts with DHHS.

I. Relevant Facts

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 her 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, Ms. Mowdy would be a nurse monitor and field supervisor. As 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. And she would perform nurse monitoring service data entry into Long Term Services Supports electronic tracking system within fifteen days of the client's visit to ensure timely authorization of services. 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.

In her role as a field supervisor, Ms. Mowdy would assist the Nurse Monitor Manager with new hire orientation, probationary and annual evaluation, training, program quality

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assurance, and provide clinical guidance and field supervision. She would assist the Nurse Monitor Manager with review and drafting of policies and procedures. Her responsibilities would also include completing home visits and supervising field nurses to complete quality nursing assessments and provider oversight. She would also participate in the organization's internal quality assurance program and assure audits are completed as required. She would have no contract monitoring or procurement responsibilities in her role with Advanced. And she would not be supervising anyone at Advanced with whom she works at DHHS.

Advanced has two contracts with DHHS for case management and nurse monitoring. Ms. Mowdy's role with Advanced 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. Furthermore, her roles are wholly separate and distinct from one another. There is no potential for overlap between the patient populations. However, if an overlap were to occur, Ms. Mowdy would ask her Advanced supervisor to assign the overlap case to another nurse monitor.

II. How the waiver standard has been met

A waiver may be issued by the Ethics Commission upon a finding that an actual conflict of interest is unlikely. While Ms. Mowdy's outside employment with Advanced is paid for through County funds, Ms. Mowdy has no authority to affect the contract between DHHS and her outside employer.

In concurring in the waiver request, the DHHS agency head's designee for review of the request stated that Ms. Mowdy would be unable to influence the identity of the client populations in either job. As a School Health Nurse, Ms. Mowdy serves all students who attend the schools she works in. At Advanced, clients are determined to be eligible for services through assessments that another program in the County performs. And, while Ms. Mowdy's position is funded under the contract, the work that Advanced does is ultimately billed to the State and is therefore not paid purely from County General Funds.

The DHHS designee further submitted that as a supervisor, there is some possibility that County contract monitors may have questions about cases Ms. Mowdy works on or oversees, which could mean that she would be in the position of having to represent Advanced in her contact with those County employees. Given that Ms. Mowdy would be working evenings and weekends, however, that possibility is limited. The DHHS designee recommends that the Ethics Commission grant the waiver with the condition that Ms. Mowdy not be a designated point of contact for the County contract monitors while she is working at Advanced.

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 approval of this waiver is conditioned on Ms. Mowdy not being designated a point of contact for County employees while she is working at Advanced. This waiver is also conditioned on Ms. Mowdy not making referrals as a County employee to Advanced or soliciting other County employees to make such referrals. And the approval of this waiver is conditioned on the facts on which the waiver is based remaining unchanged.

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.

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. Mowdy.

For the Commission:



Susan Beard, Chair