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May 30, 2013

Gino R. Santorio, Vice President
Ambulatory Care Services & Operations
Jackson Health Services
1611 NW 12th Ave., West Wing 108E
Miami, FL 33136

RE: INQ 13-128, Avery Teach & Co. contract with JHS/PHT

Dear Mr. Santorio:

You asked if your employment as Vice President of Ambulatory Care Services and Operations at Jackson Health Services (JHS) and your simultaneous voluntary board membership at the private company, Avery Teach & Co., would prevent JHS from contracting with Avery Teach & Co. Your half-brother is a principal partner at Avery.

Under the County Ethics Code, no *per se* ethics violation is created, but an appearance of impropriety could arise under the facts you presented.

You stated that Avery Teach & Co. may contract with JHS to promote and schedule lectures given by JHS physician-employees. JHS and Avery would each be apportioned a share of the lecture fees. You have no financial interests whatsoever in Avery Teach & Co., and your job responsibilities at JHS will not involve you in awarding, negotiating, administering, or overseeing the contract.

The provisions of the Ethics Code that generally prohibit a family member from doing business with JHS or the Public Health Trust (PHT) do not apply to the facts you presented because half-brothers do not fall within the County's definition of "immediate family members." See the County Ethics Code at Secs. 2-11.1 (b)(9), (c)(1), (c)(2), and (d).

Nevertheless, were this contract to be executed, you would be subject to other sections of the County Ethics Code. These include the ban on exploiting your official position to benefit Avery (Sec. 2-11.1 (g)), the prohibition on disclosing confidential information to benefit Avery (Sec. 2-11.1 (h)), the bar on acquiring a financial interest in Avery in anticipation of its contract with JHS (Sec. 2-11.1 (o)), and the proscription

on appearing before anyone or any board at JHS or the PHT on behalf of Avery Teach & Co. (Sec. 2-11.1 (m)(1)).

As we discussed, the County Ethics Code provides a minimum standard of conduct for public employees. It does not directly address "appearance of impropriety" issues that should guide our actions, nor does it address the subjective mindset of a public employee who, for reasons outside of the Code, does not feel capable of being fair or objective in a particular matter, due to personal or family considerations. Any public employee under such circumstances must use his or her own judgment in determining the proper course of action when conducting public business.

One way to mitigate an appearance of impropriety under the facts you've presented would be to resign as a board member at Avery Teach & Co. This action would be at your discretion and is not required under the County Ethics Code.

Sincerely,



VICTORIA FRIGO
Staff Attorney