



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Marie Blaise, Home Care Aide, Miami Dade Community Action and Human Services Department

FROM: Gilma Diaz-Greco, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-88

DATE: August 31, 2020

CC: All COE Legal Staff; Felicia Calzadilla, Home Care Aide Supervisor;
Michael Moxam, Social Services Administrator, Miami-Dade
Community Action and Human Services Department

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts

You are employed at the Miami-Dade Community Action and Human Services Department (CAHSD). You would like to engage in outside employment working for Regents Park Aventura nursing home (Regents) owned by Regents Park at Aventura, Inc. a for-profit Florida Corporation.

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your proposed outside employment with Regents.

Background:

As background, you are employed at CAHSD as a Home Care Aide (HCA). The Home Care Aide program run by CAHSD provides home care assistance to clients over 60 years of age. One of the purposes of the program is to assist clients to remain at home rather than move to nursing home facilities. The division does not have any contracts with nursing homes, and neither the division nor the HCAs employed by the division refer clients to nursing homes. Your job duties as an HCA include visiting eligible clients to assist them with personal hygiene and home care help such as cleaning and grocery shopping. Your job duties do not include providing any medical or nursing services to the clients.

You became certified as a nurse in November of 2019 and you are seeking to engage in outside employment as a nurse at Regents. Your duties as a nurse would involve providing the medical care regularly provided by nurses which includes but is not limited to administering medication, monitoring vital signs and patient progress, and preparing nursing reports. This work would occur outside of your County hours and would not require the use of any equipment or resources which you use in your County employment.

We have consulted with your supervisor at CAHSD who confirmed that your County job duties as an HCA do not include providing any medical or nursing services to the clients to which you are assigned; that the Home Care division does not contract or have any interaction with nursing homes; that the division instructs HCAs not to make any recommendations for professional services or facilities; and that the services provided by Regents would not compete with services provided by CAHSD.

Analysis and Opinion

Several sections of the Miami-Dade Code of Ethics, and other relevant Miami-Dade administrative Orders and ordinances must be considered in analyzing whether a County employee's outside employment may create prohibited conflicts of interest.

- Sections 2-11.1(j) and (k) prohibit County employees from engaging in outside employment which would impair the employee's independence of judgement in the performance of his or her public duties. Furthermore, County employees may not engage in outside employment that creates a conflict of interest between the employee's public duties and his or her personal interests. Miami-Dade Administrative Order 7-1.
- Miami-Dade Code Section 2-11 prohibits County employees from using County time, materials or equipment in outside employment and from engaging in outside employment that would be adverse or detrimental to the interests of the County.
- Section (g) of the County Ethics Code prohibits County employees from using their official position to obtain special privileges or exemptions for themselves or their

outside employers. Overseeing, administering, being involved in the selection or recommendation of any current or future contract that the employee's outside employer may have with the County, and/or the use of County time or resources in the performance of outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.

In this instance, your public duties as an HCA do not include providing nursing or medical services, and your County job will not otherwise cause you to interact with the same or similar entities in your outside employment that you interact with in your public duties. *See* RQO 05-95.

Consequently, based on the facts presented here, and after discussing this matter with CAHSD supervisory personnel, we concur with CAHSD that your proposed outside employment as a nurse with Regents is unlikely to cause conflicts of interest. This is because your County job duties and the duties of your outside employment are not closely related; your County job duties do not include providing nursing services nor interaction, administration or oversight of any nursing homes. *See* COE Outside Employment Guidelines (2019). In addition, since your outside employment would occur outside of your County hours of employment and involves medical duties, it is unlikely that any County resources would be used for this job. *See* COE Outside Employment Guidelines (2019) and Miami-Dade Code 2-11.

Nevertheless, you must abide by certain limitations and cautions outlined below:

- You may not use County time or resources in your outside employment. Miami-Dade Code Sec. 2-11.
- Pursuant to Miami-Dade Code Section 2-11.1(g), you may not use your County position to obtain special privileges or exemptions for yourself, for Regents or for any of Regents' clients. *See* RQO 99-40. Furthermore, use of County time or resources in the performance of your outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.
- You may not disclose any confidential information, or use any confidential information gained in your County employment to benefit yourself, Regents, or the company's clients. Miami-Dade Code Sec. 2-11.1(h).
- You may not represent Regents or any of its clients before any county board or agency. Miami-Dade Code 2-11.1(M)(1) and RQO 04-173.

Please also note that, as long as you are engaged in outside employment you must obtain permission to engage in outside employment annually. You must also file an outside

employment financial disclosure form ([Outside Employment Statement](#)), reporting any money received from your employment with Regents.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.