



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Alejandra Longa
Veterinary Technician
Miami-Dade County Animal Services Department

Susan Marazita
Administrative Officer 2
Miami-Dade County Animal Services Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-81, Section 2-11.1(j), Conflicting employment prohibited.

DATE: May 10, 2022

CC: All COE Legal Staff

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

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Ms. Alejandra Longa, an employee of the Miami-Dade County Animal Services Department ("ASD"), to engage in outside employment as a Relief Veterinary Technician for Meows and Purrs Feline Hospital, LLC ("M&P").

Ms. Longa is currently employed by ASD as a Veterinary Technician at the Pet Adoption and Protection Center. Her job duties are primarily to serve as Lead Technician – managing and supervising the veterinary technician staff – as well as the normal duties of a veterinary technician, which include doing intake on new animals, performing radiographs and vaccinations, medicating animals, attending emergencies, and assisting in surgery.

Ms. Longa would like to engage in outside employment as a Relief Veterinary Technician for M&P. M&P is a Florida limited liability company owned and operated by Dr. Erica Unz, a

veterinarian and former County employee.¹ Ms. Longa’s duties with M&P would include assisting the veterinarian in restraining and medicating pets, as well as assisting in surgeries.

M&P has applied to be a County vendor that provides veterinary services to ASD. *See* INQ 22-61. However, Ms. Longa’s ASD supervisor has advised that Ms. Longa will not have any involvement in either the oversight of or compliance with any contracts between ASD and M&P, nor will Ms. Longa participate in the provision of veterinary services by M&P pursuant to a County contract.

Ms. Longa advises that her outside employment would only occur outside of the times/hours that she will be expected to perform her duties as a Veterinary Technician for ASD, explaining that she would only do Relief Veterinary Technician work for M&P on her days off. She further advises that, as part of her proposed outside employment, she will not be required to encounter the same or similar people or entities as in her County position because M&P only treats privately owned animals, whereas ASD only treats stray animals, trap-neuter-return (“TNR”) feral cats, and owner-surrendered animals. Ms. Longa advises that her position with ASD does not involve the recruitment or management of County vendors or contractors. She also advises that no County resources will be used for her proposed outside employment; rather, M&P provides its own supplies, uses different medications and protocols, and even has different database software. Finally, Ms. Longa advises that, as part of her County position, she does not have access to non-public information that is, or could be, relevant to her proposed outside employment.

Issue

Whether any prohibited conflict of interest may exist between Ms. Longa’s County employment and her proposed outside employment as a Veterinary Technician for M&P.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics (“County Ethics Code”) prohibits County employees from accepting outside employment, “which would impair his or her independence of judgment in the performance of his or her public duties.” Section 2-11.1(j); *see also* section 2-11.1(k). Additionally, Miami-Dade County Administrative Order 7-1 provides that, “[u]nder no circumstances shall a County employee accept outside employment . . . where a real or apparent conflict of interest with one’s official or public duties is possible.”

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111;

¹ A prior informal opinion has been issued addressing potential conflicts of interest to Dr. Unz related to M&P contracting with the County as a vendor providing veterinary services to ASD. *See* INQ 22-61.

INQ 19-101. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

The County Ethics Code does not prevent a County employee from engaging in outside employment with a County vendor, as long as the County employee does not have any involvement with the vendor's contract with the County. *See* RQO 16-02; INQ 20-31; INQ 18-54.

Outside employment is more likely to conflict with County employment "when the two pursuits overlap or are closely related." INQ 16-89 (citing RQO 12-11, INQ 12-159). However, "a similarity between an employee's County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest." INQ 22-07; *see also* INQ 18-54 (citing RQO 12-07; RQO 04-168; RQO 00-10) (concluding that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations). Rather, a County employee who performs similar services for the County and for an outside employer that is also a County vendor may continue performing the outside employment even though his or her County department oversees the outside employer's contract with the County, *so long as limitations* are in place. *See* INQ 18-54 (citing RQO 17-01; RQO 16-02).

In the past, veterinarians and veterinary technicians have sought to engage in outside employment providing veterinary services with the Humane Society of Greater Miami and the South Florida Veterinary Foundation ("SFVF"), which were both County vendors. *See* INQ 16-89. In those set of facts, in addition to the similarity between the County work and the outside employment, the factors that presented a conflicting situation included: (a) that the outside employment with HSGM would occur in the same County facility in which the employees worked as ASD employees; (b) the outside employment required interaction with ASD staff; (c) the same or similar resources were used in both the County work and the outside employment; (d) the County employees worked in positions where they would have an opportunity to refer the public to the County vendors; and, (e) the County employees had access to information not available to the public that may have been relevant to their outside employers. *See id.*

In contrast, a veterinarian who worked for ASD did not have a conflict of interest in engaging in outside employment by maintaining a private veterinary practice so long as she adhered to several limitations, including not contracting with the County if it would interfere with her full and faithful discharge of her duties; not contracting with the department that will enforce, oversee, or administer her contract; not using her official position to secure special privileges or exemptions for herself or others; not disclosing confidential information; not lobbying the County; and, not taking any official action that would affect her private financial interests. *See* INQ 17-175.

Thus, based on the information provided to us at this time, and after speaking with Ms. Susan Marazita – Ms. Longa's supervisor – it appears to be unlikely that the outside employment that Ms. Longa is seeking to engage in would impair her independence of judgment in the performance of her County duties as a Veterinary Technician. This is because there is no overlap between her public duties and her outside employment: it is significant that (a) the outside employment Ms. Longa will engage in will take place at a different facility than the County facility; (b) that her

outside employment will not require her to interact with ASD staff; (c) that M&P provides its own supplies, uses different medications and protocols than ASD, and even has different database software; and (d) that it does not appear that Ms. Longa would have the opportunity to refer the public to M&P because of the different types of services provided by ASD and M&P. *See* INQ 17-175; *cf.* INQ 16-89. Additionally, Ms. Longa's outside employment will be performed outside of her County hours; and, she will not have access to non-public information as part of her County employment that is, or could be, relevant to her outside employment because ASD and M&P provide different types of services to different types of communities: abandoned or feral animals on the part of ASD and privately owned animals on the part of M&P. *See* RQO 17-01; RQO 16-02; INQ 17-175. Finally, it is significant that Ms. Longa, does not have any authority to enforce, oversee, or administer any contracts between ASD and M&P, nor will she ever have occasion to do so or to supervise anyone with said authority. *See* INQ 17-175.

Opinion

Accordingly, based on the facts presented here and discussed above, Ms. Longa would not have a conflict of interest in her proposed outside employment as a Relief Veterinary Technician for M&P.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Ms. Longa's permission to engage in her proposed outside employment:

- She may not engage in activities that relate in any way to her outside employment during her scheduled work hours (including phone calls, text messages, e-mails, or other communications) and she may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with her outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- She may not exploit her County position to secure special privileges or exemptions for herself and/or M&P. *See* County Ethics Code § 2-11.1(g). This includes soliciting business for M&P while on duty at ASD, either by handing out business cards or informing ASD clients about M&P and/or its services. *See* INQ 17-175.
- She may not disclose and/or use any confidential and/or proprietary information acquired because of her County employment to derive a personal benefit, or for the benefit of M&P. *See* County Ethics Code Section § 2-11.1(h). This includes not being able to see clients at ASD and then see the same clients at M&P. *See* INQ 17-175.
- She may not represent M&P before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of her potential activities as a Relief Veterinary Technician for M&P, it is important to note that she would be prohibited from doing any such activities on behalf of M&P or its clients.
- She may not make referrals to M&P for any veterinary services not performed or provided by ASD. *See* County Ethics Code §§ 2-11.1(g) & (p); INQ 14-185. She also may not ask,

instruct, or permit other ASD staff under her supervision to make referrals to M&P. *See* INQ 17-175.

- She must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with her department director, and she **must file an Outside Employment Statement** with the County's Elections Department by noon on July 1st of each year. *See* County Ethics Code § 2-11.1(k)(2).
- She **must file a sworn statement** disclosing her outside employment and interest with the Clerk of the Court in accordance with Section 2-11.1(f) of the County Ethics Code.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from ASD or under state law. Questions regarding possible conflicts based on ASD directives should be directed to ASD or the Mayor's Office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.