

Meyers, Robert (COE)

TRQ 10-90

From: Meyers, Robert (COE)
Sent: Monday, May 17, 2010 2:58 PM
To: 'Kumpe, Corrina'
Subject: RE: Lobbyist Affidavit

Ms. Kumpe:

Thank you for your e-mail and I have had the opportunity to discuss this matter with Victoria Frigo. I can offer you two suggestions and leave it to you to decide whether either accomplishes your goal. In my opinion, you would not be permitted to alter or amend the affidavit, but I see no reason why you couldn't provide an attachment which explains your company's position on the role of the sales forces when meeting with Jackson Health System personnel. Another option is to limit the scope of their authority on the form that the principal (company) must complete before a person is permitted to lobby. In essence, this form authorizes a person to lobby on the principal's behalf and you can indicate on this form that your sales force is lobbying only to the extent it is necessary to meet with hospital personnel to sell the company's products. Keith Knowles is charge of lobbyist registration for the Clerk's Office and he might be able to offer additional assistance.

Feel free to contact me concerning the above should you wish to discuss. My direct line is (305) 350-0613.

Sincerely,

Robert Meyers, Executive Director
 Miami-Dade Commission on Ethics and Public Trust

From: Kumpe, Corrina [mailto:Corrina.Kumpe@covidien.com]
Sent: Thursday, May 13, 2010 3:38 PM
To: Meyers, Robert (COE); Frigo, Victoria (COE)
Cc: Spears, Lori
Subject: Lobbyist Affidavit

Mr. Meyers:

I spoke with Victoria Frigo this morning regarding the applicability of the Lobbyist Affidavit to one of our employees who would like to make a sales call to a hospital within your jurisdiction. Ms. Frigo pointed me to several Advisory Opinions regarding this matter. I understand that, while vendors who are providing only technical assistance and in-service training to clinical staff regarding a medical surgical product that has *already been purchased* are not required to register as lobbyists (see Advisory Opinion RQO 06-04); however, vendors who *sell* products are required to register as lobbyists (see RQO 06-03). I further noted that the contingency fee ban does not apply to commission payments made to sales people (see Advisory Opinion 06-34). However, I am unable to direct my sales people to sign an affidavit indicating that they are lobbyists acting on behalf of Covidien because I do not want to expand the scope of their employment to include lobbying activities. Covidien generally does not use its sales force in connection with lobbying efforts. By having them execute the affidavit, and therefore become registered as lobbyists within the Miami-Dade jurisdiction, we would be expressly permitting them to serve in functions in which they were not intended to serve. As you can see, from an employment law perspective, the lobbyist affidavit creates an issue for our organization.

I am wondering whether we can provide you the requisite information that you are seeking without having our sales people register as lobbyists. In the alternative, may we edit the affidavit form to expressly state that such sales people's scope of employment is not expanded to include lobbying activities as that phrase is typically understood, and that it only includes selling Covidien products? I look forward to hearing from you regarding this matter. Thank you.

Corrina A. Kumpe

5/17/2010

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5/17/2010