

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, March 15, 2012 11:53 AM
To: 'spool@wlgore.com'
Cc: Ramos, Miriam S. (COE); Centorino, Joseph (COE)
Subject: JMH Lobbyists (INQ 12-46)
Attachments: RQO 06-63 Lucas reps are lobbyists.pdf; RQO 06-65 Oettinger reps are lobbyists.pdf; RQO 06-04 Lucas JMH trials.pdf

Ms. Pool,

The Miami-Dade Commission on Ethics is empowered to interpret the County Ethics Code, which applies to all staff at the County-owned Jackson Memorial Hospital system.

In numerous opinions, the Ethics Commission has interpreted the term "lobbyist" very broadly to include anyone intending to influence an official government decision-maker.

I'm attaching three ethics opinions that specifically address lobbying at Jackson Memorial Hospital. You will see that sales representatives must register as lobbyists, but this requirement may not necessarily apply to others from your company if, for example, they were to provide *only* technical assistance during surgical procedures.

Sales reps are not exempt from registering under the exclusion for employees whose normal scope of employment does not include lobbying activities, because sales reps attempt to influence decision-makers. Attempting to influence decision-makers is considered lobbying.

You are correct that medical device sales reps who register as lobbyist are required to comport with all other responsibilities associated with lobbying in Miami-Dade County, including providing the necessary affidavits, filing annual expenditure reports (even if no costs have been expended to lobby) as well as the new requirement of completing lobbyist ethics training.

If you have further questions, please feel free to contact me.

Sincerely,

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From: Sheryl Pool [<mailto:spool@wlgore.com>]
Sent: Monday, November 28, 2011 10:55 AM
To: Ethics (COE)
Cc: Gore National Accounts
Subject: Jackson Memorial Health - Lobbyist registration requirement

W. L. Gore & Associates manufactures and sells implantable medical devices (stents, grafts, sutures, etc). Gore employs sales representatives who sell specifically to hospitals worldwide.

Jackson Memorial Health System has implemented a policy requiring all sales representatives to register as lobbyists with Miami-Dade County. Their policy cites Section 2-11.1(s) Code of Miami-Dade County as authority for imposing this requirement.

The definition of "lobbyist" under this section of the Code appears to only apply to persons who seek to influence passage, defeat or modifications of County Commission activities. The definition specifically excludes "employees of a principal whose normal scope of employment does not include lobbying activities". Selling medical devices to hospitals and providing training on those devices to hospital personnel doesn't seem to fit this definition.

Our concern is that by registering as a lobbyist, Gore sales representatives are then required to file annual expenditure statements (there will be none to report); joint contingency fee affidavits (do not apply) and will otherwise be governed in a manner that does not apply to their scope of employment.

Unfortunately, Jackson Memorial feels strongly that this section of the Code does apply and intends to ban access to the hospital to any individual who does not first register as a lobbyist. The only alternative is to cease doing business with the hospital - which is naturally unacceptable to our sales representatives.

Any clarification, opinion, or other information you can provide regarding the application of the lobbyist code to individuals operating within the scope of their employment as sales representatives (unrelated to County Commission activities) would be very much appreciated.

Thank you,

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