



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Marisa Bezjian, Associate Veterinarian  
Zoo Miami, Miami-Dade Department of Parks, Recreation and Open Spaces

**FROM:** Susannah Nesmith, Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2023-100, Section 2-11.1(j) and (k), Conflicting employment prohibited

**DATE:** August 14, 2023

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your request for outside employment as a veterinarian.

#### Facts

You are employed by the Miami-Dade Parks, Recreation and Open Spaces Department (“PROS”) as an associate veterinarian at Zoo Miami. Your primary job duties involve scheduling exams for Zoo residents, treating emergency cases, managing outgoing shipments of animals to other institutions, treating sea turtle rehabilitation cases and participating in institutional management.

You maintain a limited liability corporation, Zoological Veterinary Services, LLC, which you founded before taking your present job at Zoo Miami. Before accepting your current position with the County, you performed veterinary services through this corporation for entities such as Disney’s Animal Kingdom and wildlife rehabilitation centers. Though you have kept this corporation active with the Florida Department of State, you have not engaged in outside employment through this corporation since taking the job at Zoo Miami and this corporation has had no income during that time. This corporation has not and does not intend to contract with Zoo Miami or any County department or agency.

You have asked if you would be permitted to engage in outside employment, performing veterinary services for private clients, through this corporation.

## Issue

Whether any prohibited conflict of interest may exist between your employment at Zoo Miami and your proposed outside employment as a veterinarian for private clients.

## Analysis

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties, thereby creating a conflict between the employee's public responsibilities and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under 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."

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 22-22; INQ 19-101; INQ 13-28. The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds, at any time, that the outside employment is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 23-15; INQ 12-49.

Several factors are considered to determine whether a potential conflict of interest exists between an individual's County position and his or her outside employment, including: the similarities between the employee's public duties and the outside employment; whether the employee has decision-making authority in his or her public role over matters concerning his or her outside employment; whether the employee solicits business or customers in the same area over which he or she works or has authority; whether the employee will come into contact with the same or similar people or entities in both his or her public position and outside employment; and whether the employee's public employer has existing **contracts or agreements** with the outside employer. *See* RQO 17-01; INQ 21-54.

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).

In the past, the Ethics Commission has found that both a veterinary technician and a veterinarian with the Miami-Dade County Animal Services Department were permitted to engage in outside employment at private veterinarian clinics when there was no overlap between their county responsibilities and their private outside employment because (a) the outside employment the

employee will engage in takes place at a different facility than the County facility; (b) her outside employment will not require her to interact with her County department's staff; (c) the company she works for provides its own supplies, uses different medications and protocols than her County department, and even has different database software; (d) the employee's outside employment will be performed outside of her County hours; and (e) the employee does not have any authority to enforce, oversee, or administer any contracts between her County department and her outside employer, nor supervise anyone with said authority. *See* INQ 22-81; INQ 17-175.

In this instance, both your county position and your proposed outside employment appear to require you utilize the same knowledge base, however, there is no indication that a prohibited conflict of interest exists. Therefore, the similarities in the services you would be providing as a veterinarian in the two positions do not preclude you from engaging in outside employment, particularly as you have indicated that you will not work for any County vendors or entities with whom the County has agreements; you will not use any equipment or resources which you use in your County employment; you will not work with the same people or similar entities that you currently work with in your County employment and you will not conduct your private business during your County work time. Further, the Ethics Commission has also held that use of an acquired knowledge base in outside employment does not in and of itself create a conflict of interest. *See* INQ 20-43.

Here, based on the information provided to us, **it appears to be unlikely that the type of outside employment you are seeking to engage in would impair your independence of judgment as a veterinarian at Zoo Miami.** Additionally, you have been advised that **you cannot share non-public information you have access to as part of your County employment** with anyone outside of Zoo Miami, including your outside employer or clients. *See* RQO 17-01 (discussing multiple factors to consider when evaluating whether outside employment is conflicting); RQO 16-02; INQ 21-54.

### Opinion

Based on the facts presented here and discussed above, you would not have a conflict of interest in your outside employment as a private veterinarian through your corporation, Zoological Veterinary Services.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on your supervisor's permission for you to engage in outside employment with your private corporation:

- You may not engage in activities that relate in any way to your outside employment during your scheduled work hours (including phone calls, text messages, e-mails, or other communications) and you may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, County vehicles or information contained in County databases or records) in connection with you outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.

- You may not exploit your County position to secure special privileges or exemptions for yourself and/or for Zoological Veterinarian Services or its clients. *See* County Ethics Code 2-11.1(g). **Specifically, you may not offer veterinary services to anyone during County working hours, including members of the public, co-workers, other County employees or any entity with which PROS has a contract or agreement.** *See* INQ 19-101.
- You may not disclose and/or use any confidential and/or proprietary information acquired because of your County employment to derive a personal benefit, or for the benefit of Zoological Veterinary Services **or its clients.** *See* County Ethics Code Section 2-11.1(h).
- You may not represent Zoological Veterinary Services **or its clients** before any County board or agency. *See* County Ethics Code Section 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of your potential activities as a veterinarian, it is important to note that you would be prohibited from doing any such activities on behalf of your corporation or its clients.
- You must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director, and **you must file an Outside Employment Statement<sup>1</sup> with the County’s Elections Department by noon on July 1st of each year for the prior year’s outside employment, regardless of whether you made a profit or not in your outside employment.** *See* County Ethics Code Section 2-11.1(k)(2).

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 PROS or under state law. Questions regarding possible conflicts based on PROS directives should be directed to PROS 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/>.

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<sup>1</sup> The required form can be found online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

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.