



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dr. Quina Munson, Mental Health Services Manager
Miami-Dade Corrections and Rehabilitation Department

Sherea Green, Director
Miami-Dade Corrections and Rehabilitation Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics and Public Trust

SUBJECT: INQ 2024-149, Section 2-11.1(j), Outside employment

DATE: August 30, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest in Dr. Quina Munson’s proposed outside employment.

Facts

Dr. Munson is currently employed as a Mental Health Services Manager with the Miami-Dade Corrections and Rehabilitation Department (“MDCR”). She advised that her job duties primarily include providing psychotherapeutic services for sworn and civilian MDCR employees, as well as supervising MDCR’s Employee Wellness Unit.

Dr. Munson would like to engage in outside employment as the sole owner and operator of Quina H. Munson, Psy.D., P.A.,¹ a Florida for-profit corporation, of which she is the sole owner. She is also the President of Quina H. Munson, Psy.D., P.A., and through it she seeks to contract with ChildNet, Inc. (“ChildNet”), as an independent contractor. ChildNet is a Florida not-for-profit, and Dr. Munson advised that it oversees the placement and case management of minor children

¹ Florida Department of Health records indicate that Dr. Munson is licensed as a Psychologist in Florida.

involved in dependency proceedings.² Her contract with ChildNet will require that she supervise a group of doctoral practicum students from Nova Southeastern University. Specifically, she advised that the practicum provides individual, family, and therapeutically supervised visitation services to families involved in foster care in Broward County. She further elaborated that it will be her responsibility to ensure that the doctoral students involved in the practicum provide clinically sound and ethical treatment to their clients, and she will do so through oversight of their clinical paperwork and weekly meetings.

Dr. Munson further elaborated that her proposed outside employment will only occur outside of the hours that she works for MDCR because the work she will conduct as a contractor with ChildNet will occur in the evenings and weekends. She further stated that, in the event of an MDCR clinical crisis, she will be able to attend to her County work and reschedule any meetings related to her outside employment. She affirmed that she will not use the same or similar resources in her outside employment as in her County position, and that she will not come into contact with the same or similar people or entities, noting that she does not work with the persons in MDCR custody in her County position and her proposed outside employment is in Broward County. She further stated that she does not have access to non-public information that is, or could be, relevant to her proposed outside employment. She also advised that her MDCR position does not involve the recruitment or management of vendors, contractors, bidders, or members of the public who could be involved in her proposed outside employment. Finally, she advised that her company – Quina H. Munson, Psy.D., P.A., is not and will not become a County vendor.

Issue

Whether a Mental Health Services Manager with MDCR may engage in outside employment as the owner and President of a private company contracting with a non-profit to provide supervision of a doctoral practicum for Nova Southeastern University students.

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.” County Ethics Code § 2-11.1(j); *see also* County Ethics Code § 2-11.1(k). Additionally, Miami-Dade County Administrative Order (“AO”) 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.”

² ChildNet describes itself as the Community Based Care lead agency in Broward County and Palm Beach County chosen by the Florida Department of Children and Families to manage the local system of services and support for those communities’ children. *See About ChildNet*, ABOUT CHILDNET, <https://www.childnet.us/about-childnet> (last visited Aug. 26, 2024).

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 Ethics Commission regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; 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.

Multiple factors are considered when evaluating whether outside employment is conflicting, including similarity of duties with the employee's County duties, contact with the same or similar entities (e.g., similar personnel, clients, suppliers, or subcontractors) in both the employee's County position and proposed outside employment, overlapping work hours, use of County resources in the outside employment, and the management of County vendors who are also involved in the proposed outside employment. *See* RQO 17-01. The 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. *See* INQ 18-54 (citing RQO 12-07; RQO 04-168; RQO 00-10) (noting that a County employee can engage in outside employment with similar duties and functions so long as he or she abides by certain limitations). Furthermore, the use of an acquired knowledge base in outside employment also does not, in and of itself, create a conflict of interest. *See* INQ 20-43 (a firefighter/emergency medical technician working for the Miami-Dade Fire Rescue Department could engage in outside employment as the Chief of the Tavernier Volunteer Fire Department).

In practice, a Veterinarian working for the Miami-Dade Animal Services Department could engage in outside employment as a private veterinarian, provided that she did not solicit business for her private practice while engaged in her County duties, use County resources in her outside employment, see the same clients in both her County and private practice, and have other County employees refer County clients to her private practice. *See* INQ 17-175. Additionally, a Training Specialist 2 for MDCR's Training Bureau could engage in outside employment as an Adjunct Professor at Miami-Dade College teaching, among other things, a psychology course because Miami-Dade College is not a contractor with MDCR for the purpose of training MDCR staff and if any MDCR staff are enrolled in her class, their enrollment may have no impact on their County assessments or promotions. *See* INQ 17-232.

Furthermore, while the Ethics Commission does not have jurisdiction to interpret the Florida Code of Ethics, opinions rendered by the Florida Commission on Ethics interpreting the Florida Code of Ethics can be instructive.³ For example, a psychologist employed with the Florida Department

³ *See, e.g.,* INQ 23-115 Amended (discussing Fla. Comm'n Ethics Op. 11-6); INQ 23-97 (discussing Fla. Comm'n Ethics Op. 88-46); INQ 17-212 (referencing Fla. Comm'n Ethics Op. 98-22).

of Corrections did not have a prohibited conflict of interest that prevented her from engaging in outside employment with a private organization that provided counselling to individuals who are on probation because the outside organization was not a State contractor and her State position did not involve any possibility of referrals to her private employer. *See* Fla. Comm'n Ethics Op. 88-10.

Here, based on the facts presented and discussed above, it appears that the type of outside employment in which Dr. Munson seeks to engage would not impair her independence of judgment in the performance of her County duties as an MDCR Mental Health Services Manager, provided that she does not have as a client or otherwise supervise students who have as clients any MDCR employee. *See* INQ 17-232; INQ 17-175; Fla. Comm'n Ethics Op. 88-10. The proposed outside employment, according to Dr. Munson, will not involve the same resources as used in her County position, beyond her previously acquired knowledge base. *See* INQ 20-43. Dr. Munson also advised that her proposed outside employment will occur outside of her County work hours. Furthermore, Dr. Munson advised that her proposed outside employment as an independent contractor for ChildNet, supervising doctoral students in a practicum related to pending dependency matters in Broward County, would not involve the same persons or entities as those involved in her County work. Because her proposed outside employment is in a different County, and in a different setting, it appears that it will be unlikely that she would encounter the same persons or entities in both her County position and her proposed outside employment. However, in order to avoid a conflict of interest and/or an appearance of impropriety, **Dr. Munson must take care to screen any potential matter assigned to the practicum students she will supervise to ensure that none of the parties involved in the pending Broward County dependency matters are MDCR employees.** *See* INQ 17-175; Fla. Comm'n Ethics Op. 88-10. This is doubly important because it is conceivable that, were an MDCR employee to be involved in a dependency matter in which a practicum student under Dr. Munson's supervision participated, there may be non-public information that Dr. Munson has access to in her County role that could be relevant to the pending dependency matter, thus giving rise to a prohibited conflict of interest. *See id.* Finally, Quina H. Munson, Psy.D., P.A., the private entity through which Dr. Munson will do business with ChildNet and supervise the practicum, is not a County vendor. *See* INQ 17-175.

Opinion

Based on the facts presented here and discussed above, Dr. Munson would not have a conflict of interest in her proposed outside employment as the owner and operator of Quina H. Munson, Psy.D., P.A., contracting with ChildNet to supervise a doctoral practicum that handles Broward dependency matters, **provided that no party to said dependency matters is an MDCR employee.** *See* INQ 17-232; INQ 17-175; *see also* Fla. Comm'n Ethics Op. 88-10.

Furthermore, the Ethics Code imposes the following limitations on Dr. Munson's ability 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 for Quina H. Munson, Psy.D., P.A., or its clients. *See* County Ethics Code § 2-11.1(g). Specifically, she may not offer her or Quina H. Munson, Psy.D., P.A.'s services to anyone during County working hours, including co-workers, subordinates, and other County employees or clients. *See* INQ 19-101; INQ 17-175. Dr. Munson should also exercise caution when informing her potential clients of her local government experience to avoid any suggestion that her current position will afford her company or its clients of any special benefit or access that is ordinarily not available to other psychologists not publicly employed. She should also avoid any use of County seals or other insignia. *See* INQ 23-06.
- 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 Quina H. Munson, Psy.D., P.A., or its clients. *See* County Ethics Code § 2-11.1(h); INQ 21-60.
- She may not represent Quina H. Munson, Psy.D., P.A., or any of its clients 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, it is important to note that she would be prohibited from engaging in any such activities on behalf of her company or its clients before any Miami-Dade County board or agency. *Id.*
- Dr. Munson 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 Statement⁴ with the County's Elections Department by noon on July 1st of each year regardless of whether she made a profit or not in her outside employment.** *See* County Ethics Code § 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 MDCR or under state law. Questions regarding possible conflicts based on MDCR directives should be directed to MDCR 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/>.

⁴ Dr. Munson can find the required form 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.